SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 223

OFFICIAL REPORT
(HANSARD)

Tuesday, June 19, 2018

The Honourable GEORGE J. FUREY,
Speaker

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Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, June 19, 2018

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

JOHN WARD

CONGRATULATIONS ON RETIREMENT

Hon. Jim Munson: Honourable senators, I rise today to honour the work of John Ward. John has been in the news business for almost half a century — 48 years to be exact — with the Canadian Press. He is CP's longest-serving employee.

John retires at the end of the month. Even when he was hired by CP in June 1970 as a summer relief messenger, John may have had that look of a newspaper man of long ago, but he was only making $49 a week. He wasn't in the movie, *The Front Page*, but John Ward has played many roles in the newspaper business over the last 48 years. In fact — and I think this is from Ripley's Believe It or Not! — John Ward sat right up there in the gallery when a news service actually covered the Senate every day. He has been on the Hill for 30 years. Known as "the Professor" in the news business, it seems that John covered every Ottawa beat. According to his wife, all John ever wanted to do was work for CP. And did he ever work: Toronto; London, Ontario; New York at the UN; Edmonton; and then back to the Ottawa bureau.

When he arrived on the Hill in 1970, his dad Ben Ward was working at CP. For a time, John was known as Ben's son. In fact, when I arrived in Ottawa two years later in 1972, I got to know Ben before meeting John.

I always felt comfortable with the Wards because we could always see eye to eye, if you know what I mean. John Ward's accomplishments were many. He covered 30 budgets, numerous federal elections, elections in six provinces, the United Nations, the war zones of Bosnia and Somalia, special occasions such as the visits of the Dalai Lama, Nelson Mandela and Prince Charles. There were a number of National Newspaper Award nominations, and he won two of them. But he didn't win these awards for recognition. He just loved to write and to get the story right.

In the early days of CP, there were no personal bylines, just a CP byline, but it seems you could always know when a story had John's touch. Whether it was the murder trials of the rich and not so famous, Stanley Cups, a Grey Cup, Olympic Games, Edmonton tornado, Hinton, Alberta, train wreck or the tragedy of Swiss Air Flight 111, John Ward wrote crisp, clean copy. He never got in the way of the story. He just wrote it.

Colleagues and friends will be honouring John at a local drinking establishment next week. This is the headline: On June 28, 1970, Elvis Presley and the Beatles were still topping the billboard charts, the legal voting age in Canada had just been lowered to 18 from 21, and a teenaged John Ward was setting foot for the first time in a Canadian Press newsroom.

Honourable senators, to know John Ward is to love him. His new nickname will be "Professor Emeritus." Thank you, John, for telling us the everyday story over the last half century. Honourable senators, I give you John Ward.

Hon. Senators: Hear, hear!

WORLD REFUGEE DAY

Hon. Ratna Omidvar: Honourable senators, tomorrow, June 20, is World Refugee Day, and I ask this chamber to pause for a few minutes to reflect on the lives and the plight of the 68.5 million people in the world who are fleeing violence, persecution and civil war.

There are two headlines in recent days that add urgency to this context. The first is the onslaught of the monsoon season in Myanmar and Bangladesh. This brings to mind the testimony provided to the Human Rights Committee by the Prime Minister's Special Envoy to Myanmar, the Honourable Bob Rae. He told us of Rohingya women who recounted to him vicious attacks of assault and rape in their own homes at the hand of security forces. Nine months later, health workers in Cox's Bazar fear that many of the women and girls are hiding pregnancies out of fear of being stigmatized.

He told us of the Rohingya's fear that the world had forgotten that they were human, let alone that they were people and citizens of Myanmar. He told us — and he wept as he did so — of the thousands of young people whose futures hang in the balance in poorly resourced camps now threatened by cascades of monsoon water and overcrowding.

The other headline is closer to us, and it comes to us from south of the border, where 2,000 migrant children from countries like El Salvador and Honduras are being separated from their mothers and fathers as they cross the U.S. border informally and claim asylum. There are images of these children held in makeshift detention camps with large fenced cages, lying on makeshift blankets made of aluminum foil. These images have rattled many here, around the world and, in fact, in the U.S. as well. These two headlines — monsoons adding to the misery in refugee camps in Bangladesh, detained children in the U.S. torn from the arms of their mothers in the U.S. — underline the call for action over inaction, empathy over indifference, and the rule of international law over flagrant disregard for it.

On World Refugee Day, let's recall our own checkered past. There have been times when we have closed our doors and turned away ships and people. But there have also been times when we have opened our hearts and mind to refugees with great generosity and compassion. Let's reflect on which choice has made us stronger, not just nationally but internationally. Let's focus more on what can and must be done by us as individuals, by us as a nation, and by us as a member of the global world order.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dianne Ravalia, wife of the Honourable Senator Ravalia.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Norma Dubé and Roxanne Fairweather. They are the guests of the Honourable Senator Hartling.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

• (1410)

CANADA SUMMER JOBS PROGRAM

Hon. Nicole Eaton: Honourable senators, as we prepare to depart this place for the summer, I want to draw attention to the hundreds of children who will not be able to go to camp this summer — children living in poverty, children with special needs — because the organizations running the camps were refused funding from the federal government.

More than 1,500 applications were rejected for the Canada Summer Jobs program this year — up from just 126 last year — because of the government's values test. If you were unwilling to sign an attestation indicating you agree with abortion, your application was rejected.

I'm a Catholic, and in my archdiocese of Toronto, at least 150 jobs have been jeopardized by this attestation. According to Cardinal Collins, among those most impacted are a summer camp for deaf children, employment for developmentally challenged young people and students welcoming newcomers to Canada.

Other faith groups in the Jewish and Islamic communities are similarly affected. Bernadette Sharpe, Chief of the Loon River First Nation in Alberta, says some Indigenous groups have also been denied funding because they refused to sign the attestation.

The great irony of this misguided decision is that the government appears perfectly willing to violate the Charter rights of people of faith on the grounds that it claims to be upholding the Charter right to abortion. As you know, colleagues, the Charter grants us freedom of religion, freedom of conscience, freedom of thought and belief. There is a strong legal case that demanding that groups violate their fundamental beliefs in order to receive funding is a violation of their Charter rights.

And there is no corresponding right to abortion. In fact, the Supreme Court invited Parliament to pass another abortion law when it struck down the existing law in the *Morgentaler* decision.

The ones who will suffer are the young people who work for these organizations and the citizens these programs help. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Neal Rowe from Ottawa, Dr. Luke Lavallée from Ottawa, Dr. Kristen McAlpine from Ottawa, Dr. Luke Witherspoon from Ottawa, Dr. Bohdan Bidovanets from Ukraine, Dr. Nikolaos Grivas from Greece, Dr. Carmen Mir from Spain and Dr. Frans Debruyne from Belgium.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

THE ESCUMINAC DISASTER

Hon. David Richards: Honourable senators, today I rise to speak about the Escuminac disaster.

They went out on June 19, 1959, dozens of drifters, small 28- to 32-foot fishing boats. They are called drifters because they find their water, cut the engines and drift all night under the stars, with the nets dropped out for hundreds of yards behind them, drifting for salmon coming into the Miramichi Bay on the spring run from Greenland.

These were men and boys, the boys accompanying their dads, celebrating Father's Day and the end of the school year. And like so many other years, they intended to take the salmon at midnight and cook it in their stoves under those faraway stars, the boys going to sleep on the housing as the small boats drifted. Then they would haul their nets at dawn, harvest the fish and make their way home to the wharves in the morning sun.

But that night was different. And there was no warning. The wind started in at about eight o'clock, and as anyone on the water says, it came up big sea, but the real hell started near midnight when the hurricane came full force from the south.

The men had boys to take care of and themselves, and the larger boats circled around to aid the smaller. But the waves grew from swells 40- to 60-feet high, and boats were swamped, engines, cuddies and wheelhouses smashed. It took all they had to stay afloat, cutting the nets behind them so they wouldn't sink at the stern.

The only chance one had was to ride the storm out, and those who tried to make it in to shelter at Fox Island ran aground on the shallows. So many were lost saving others. So many refused to leave those in distress.

A cook man from Tignish, P.E.I., lashed his son to the mast before he was swept away. The boy was saved. Men being tossed tethers from larger drifters that could handle the sea handed them to their friends. When Theodore Williston of the *Sharon Lloyd* got a line to one fisherman, he tied his dead friend to the line first, saying that he promised he would never leave him.

Then there was 17-year-old Alphonse Doucet. When the *Everett Williston* drifter came alongside enough to get a tether over, he tied his 13-year-old brother on first, his uncle dead in the wheelhouse, and his father, still alive, clinging at the prow. Because of the sea, it took a half hour for the rescuers to make it back to get another line over.

The Doucet boy, 17 years old, climbed on the gunnel and walked to the prow and tied his father on, saying, "Dad, I'm the captain here tonight." Forty minutes later, they got the boy himself.

But 35 men and boys died in that storm, perhaps the greatest of fishing disasters to hit the East Coast. Two of those men, Alphonse Doucet and Theodore Williston, will receive senatorial medals this July 14.

Writers and political men and women of all stripes speak of how one must conduct oneself in one's life. One should look no further than those men and boys out on the Miramichi Bay that long-ago night.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Linda Taylor and Janice Darcy. They are the guests of the Honourable Senator McPhedran.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Christina Huang from the Canadian Olympic Committee. She is the guest of the Honourable Senator Deacon (*Ontario*).

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

CERTIFICATE OF NOMINATION AND CURRICULUM VITAE TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the certificate of nomination and curriculum vitae of Yves Giroux, the nominee for the position of Parliamentary Budget Officer.

[*English*]

OFFICE OF THE EXTRACTIVE SECTOR CORPORATE SOCIAL RESPONSIBILITY COUNSELLOR

2017 ANNUAL REPORT (JUNE 2016 TO MAY 2017) TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the report entitled "Office of the Extractive Sector, Corporate Social Responsibility (CSR) Counsellor — 2017 Annual Report to Parliament (June 2016 — May 2017)".

PARLIAMENTARY BUDGET OFFICER

NOTICE OF MOTION TO APPROVE APPOINTMENT

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in accordance with subsection 79.1(1) of the *Parliament of Canada Act*, R.S.C., 1985, c. P-1, the Senate approve the appointment of Yves Giroux as Parliamentary Budget Officer.

[*Translation*]

THE SENATE

MOTION TO AFFECT THE START TIME OF THIS WEDNESDAY'S SITTING ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

> That, notwithstanding rule 3-1(1), on Wednesday June 20, 2018, the Senate meet at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

CANADA-AFRICA PARLIAMENTARY ASSOCIATION

BILATERAL MISSION, MARCH 11-17, 2018—
REPORT TABLED

Hon. A. Raynell Andreychuk: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Africa Parliamentary Association respecting its bilateral mission to Nairobi and other cities, Republic of Kenya, from March 11 to 17, 2018.

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

CO-CHAIRS' ANNUAL VISIT TO JAPAN,
MARCH 14-16, 2018—REPORT TABLED

Hon. Jim Munson: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Japan Inter-Parliamentary Group respecting the Co-Chairs' annual visit to Japan, held in Tokyo and Osaka, Japan, from March 14 to 16, 2018.

• (1420)

THE SENATE

MOTION TO PHOTOGRAPH PROCEEDINGS OF THE
SENATE ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

> That a photographer be authorized in the Senate galleries to photograph proceedings during a sitting of the Senate that occurs following the adoption of this motion up to Friday, June 29, 2018, with the least possible disruption of the proceedings.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF PHOENIX PAY SYSTEM AS PART OF ITS STUDY ON FEDERAL ESTIMATES GENERALLY WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Percy Mockler: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I give notice that, later this day, I will move:

> That the Standing Senate Committee on National Finance be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between June 21, 2018 and July 31, 2018, if the Senate is not then sitting, an interim report relating to its study of the Phoenix pay system as part of its general order of reference, and that the report be deemed to have been tabled in the Chamber.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[*English*]

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING SITTING OF THE SENATE

Hon. Percy Mockler: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I give notice that, later this day, I will move:

> That the Standing Senate Committee on National Finance be authorized to meet on Wednesday, June 20, 2018, even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

THE HONOURABLE BETTY UNGER

NOTICE OF INQUIRY

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to the career of the Honourable Senator Unger.

QUESTION PERIOD

FINANCE

CARBON TAX

Hon. Larry W. Smith (Leader of the Opposition): My question is for the government leader in the Senate concerning the carbon tax.

A Scotiabank report last week showed that a global trade war could see our economy shrink by almost 2 per cent by 2020. Foreign direct investment in Canada last year fell to its lowest level since 2010, as Statistics Canada reported back in March. In addition to the loss of the investment capital and rising American protectionism, Canadian businesses have to contend with the added cost of the Prime Minister's carbon tax, which businesses on the other side of the border do not have to bear.

In response to a survey previously conducted by the Canadian Federation of Independent Business, the vast majority of small business owners stated that the carbon tax would increase their input costs and reduce the profitability of their businesses.

Senator Harder, why is the government still intent on pursuing the carbon tax, which will hurt the ability of our businesses to compete against their American counterparts?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. This is a theme we have been debating in this chamber for some time, both in Question Period and within legislation that has been before us.

The honourable senator will know that 80 per cent of the Canadian population lives within jurisdictions that have a price on carbon, and those pricing regimes are very much part of Canada's overall framework to meet our climate change objectives. They remain the objectives of the Government of Canada.

Senator Smith: Thank you, leader, for that feedback.

The Parliamentary Budget Officer has reported that, by 2022, the carbon tax will take $10 billion out of our economy. In April, when I asked the government leader about this report and whether the government would provide Canadians with information on how much the carbon tax will cost them, he stated that the government has been transparent.

Sadly, this is not the case, as the government has resisted all attempts to provide Canadians with this information. First, the government sought to impose tax changes on small businesses with minimal consultation. Now the government is imposing the carbon tax without telling Canadian families and businesses how much they will pay.

Senator, how does this secrecy square with the transparent and open government Canadians were promised in the last election?

Senator Harder: I thank the honourable senator for his question, and again, it's a question he has asked before. I will repeat that the transparency the government is committed to is very much alive and well in the context of carbon pricing. As he well knows, the framework of the government with respect to carbon pricing allows for provincial variation in how they will choose to meet the climate change objectives. Therefore, the question he is asking with respect to the effects on particular households is contingent on choices the provinces made or have yet to make for those jurisdictions that have it.

Hon. Norman E. Doyle: My question is for the government leader in the Senate, and it's also on the Prime Minister's carbon tax. Many of the provinces originally promised to give their people more details on their approach to the carbon tax. In Newfoundland and Labrador, to date, no further information has been provided, and now it looks like it won't be coming until September. Families and businesses in my province still don't know how much they will have to pay in a matter of just a few months.

The federal government has analyzed the cost to families across the country, but it won't release these numbers. Access-to-information requests have come back with the data blackened out.

Why are families across the country being kept in the dark on how much the carbon tax will cost them?

Senator Harder: I thank the honourable senator for his question. Further to my previous answer, let me say that in respect of the jurisdictions, particularly the one he references, the answer is very much to be found in how the provinces determine to apply the carbon pricing to which they've committed themselves.

Senator Doyle: A study out of the University of Calgary last year showed that a $50 per tonne carbon tax will cost the average household in Newfoundland and Labrador $859 annually. Leader, given that the federal government has that kind of information, could you make inquiries and let us know if this figure is accurate?

Senator Harder: I thank the honourable senator for his question referencing the study done at the University of Calgary. It's not the habit of the Government of Canada to verify studies made at universities, but I will take his question under advisement.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

UNITED STATES—SAFE THIRD COUNTRY AGREEMENT

Hon. Mobina S.B. Jaffer: My question is to the government leader of the Senate regarding safe third country agreements.

Leader, we have a safe third country agreement with the U.S. I understand this is the only country we have an agreement with. You know as well as anybody in the country that this agreement makes sure that people who arrive in the U.S. and claim refugee status there are not given refugee status here. If they first arrive in the U.S., we return them to the U.S.

With what is happening in the U.S. — I'm not looking for great statements, and I am also aware of what is happening and how we have to behave — may I ask that you canvas our immigration minister as to our future plans to protect refugees? With the pictures we see, we have a responsibility for people who come to our borders.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and, frankly, for her lifelong interest in these issues. We have had occasion in other fora and other roles to debate and discuss this.

The senator is absolutely right: The 2004 agreement for safe third country with the United States was, at the time, a very important step forward, one that was endorsed by the UNHCR as a prototype for advancing and stabilizing irregular movements.

• (1430)

The honourable senator will also know the reason that it's only the United States is that it's the contiguous border with Canada, but it is a model that has worked and served Canadians well. We do have obligations under the convention to adjudicate asylum claims of those who arrive at our borders. That continues to be the case.

With respect to the recent issues along the border and the references the honourable senator has made to events south of the border, let me say that, one, I will absolutely bring it to the attention of the minister. But I'd also like to report that the minister himself has publicly stated, and would want this house to know, that he is engaging with his American counterparts and officials in the department with their counterparts to ensure that the treatment of potential claimants is appropriate and consistent with the obligations both sides have under the safe third country agreement.

Senator Jaffer: Leader, thank you for your answer. I appreciate it. I know you have done a lot of work on these matters.

The agreement states:

> Specifically, the legislation requires that the review of a designated country be based on four factors:
>
> 1. whether it is party to the 1951 Refugee Convention and the 1984 Convention Against Torture;
>
> 2. its policies and practices with respect to claims under the 1951 Refugee Convention, and its obligations under the 1984 Convention Against Torture;
>
> 3. its human rights record; and
>
> 4. whether it is a party to an agreement with the Government of Canada for the purpose of sharing responsibility with respect to claims for refugee protection.

As you know, leader, yesterday Amnesty International said the following:

> The severe mental suffering that officials have intentionally inflicted on these families for coercive purposes, means that these acts meet the definitions of torture both under U.S. and international law.

So, leader, this was one of our requirements. If Amnesty International, whom we all very much find to be a credible organization, has called this torture, I ask you to take this to the minister and say, "We need to quietly look at this and see what our next steps are."

Senator Harder: Let me assure the honourable senator that I will do so. I also want to repeat that the minister and his senior officials are actively monitoring the circumstances of the safe third country agreement and the compliance requirements of the agreement to ensure they continue to be relevant.

ENVIRONMENT AND CLIMATE CHANGE

UNITED NATIONS' SUSTAINABLE DEVELOPMENT GOALS

Hon. Rosa Galvez: My question is for the government leader in the Senate. Last week, the Commissioner of the Environment and Sustainable Development, Ms. Julie Gelfand, appeared at the Standing Senate Committee on Energy, the Environment and Natural Resources to discuss her recent report. My question today is about the findings of the spring 2018 independent auditor's report: *Canada's Preparedness to Implement the United Nations' Sustainable Development Goals*. In addressing the findings of the report, Ms. Gelfand stated:

> In our audit, we found that three years after making this commitment, the federal government was not prepared to implement the United Nations 2030 agenda. What did we find? We found it didn't have a whole-of-government approach and leadership for implementation was split among five different departments. In my opinion, it's very difficult to make progress when you have 10 hands on the wheel.

When questioned, she said:

> I don't understand how five departments are going to lead this initiative, but the government has told us that there are five departments who are leading this initiative.

Dear Senator Harder, will you please clarify which government departments are actively implementing the UN Sustainable Development Goals and which department, if any, is leading or coordinating this effort?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question. I, too, have met with the Commissioner of the Environment to inform myself of the report that was tabled. I would note that the period of the audit preceded the pan-Canadian framework and the report itself acknowledges that.

I would also point out that this chamber will know, because of the budget involved, that the pan-Canadian framework was referenced in commitments made in Budget 20[illegible] in respect of Agenda 2030 in which the government has committed:

> . . . the Government proposes to provide $49.4 million over 13 years, starting in 2018-19, to establish a Sustainable Development Goals Unit, and fund monitoring and reporting activities by Statistics Canada. This will enable better coordination among all levels of government, civil society organizations and the private sector on Canada's efforts on the 2030 Agenda for Sustainable Development.

The Senate will also know that:

> The government is also proposing to provide, from existing departmental resources, up to $59.8 million over 13 years, starting in 2018-19, for programming to support the implementation of the Sustainable Development Goals.

Furthermore, Statistics Canada has established a Sustainable Development Goals data hub in which statistical indicators will be provided to monitor progress.

What is essential here, colleagues, is that all of the component parts of the efforts that Canada is committing itself to under the 2030 objectives need to be rooted in appropriate data and appropriate coordination not just amongst departments but amongst all stakeholders.

Senator Galvez: I appreciate that answer. Thank you very much for the allocated budget, but I think that the problem is coordination. It's important to determine who is leading that progress. I would appreciate it if you can name the five departments.

Senator Harder: I'd be happy to do so and to report back. But as in all coordinated government efforts when they cross boundaries of departments, while there might be a lead minister, there's the necessary coordination. The hub unit that I've described in Statistics Canada, for example, is within the overall Department of Innovation, Science and Economic Development, but it is only one component part to receive the data from all of the stakeholders involved. This is an effort that will require a good deal of new mechanisms, both of coordination and leadership.

I would point out that Motion 215 under the name of our honourable colleague Senator Dawson is a good opportunity for the Senate of Canada to express itself and its views in a more deliberate fashion on Agenda 2030.

[*Translation*]

FISHERIES AND OCEANS

LOBSTER FISHERY

Hon. Ghislain Maltais: Honourable senators, my question is for the Leader of the Government in the Senate. A few days ago, the Minister of Fisheries and Oceans and the Canadian Coast Guard shut down the lobster fishery in Quebec and Atlantic Canada. As a result, boats belonging to hundreds, perhaps thousands, of fisheries workers are now tied up at the dock.

Plants are closing even though people have worked barely six weeks. Does the minister have a plan to compensate these men and women, these fisheries workers who have mouths to feed?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, I want to thank the honourable senator for his question. I want to assure him and all senators that the minister responsible and his officials are actively aware of it but also coordinating the effects that this is having in the communities that are affected while ensuring that there is accelerated provision of the coverage that the government is able to provide to those communities and those workers.

[*Translation*]

Senator Maltais: Mr. Leader, lobster fishers are inshore fishers, not offshore fishers. They don't fish way out at sea. My understanding is that right whales do not swim near the coast or in the Bonaventure bay.

I think the minister made a bad decision. There are very few offshore fishers left in Canada. The right whales' greater enemy is transatlantic ship traffic going through the St. Lawrence Seaway.

As I'm sure you know, the Government of Quebec immediately launched a program to assist fisheries workers. However, given that vessel owners are registered by the federal government and sail in federal waters, will the minister compensate them too?

• (1440)

[*English*]

Senator Harder: Again, I will bring the request of the honourable senator to the minister's attention. I want to assure him, though, that the minister is very attentive to the circumstances. The minister has made decisions that are in the best interests of the fisheries, and I will, obviously, report back, as appropriate.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Hon. Victor Oh: My question is for the Government Leader in the Senate. Last week, it was reported that the new Italian government will not ratify CETA, the Canada-European Union Comprehensive Economic and Trade Agreement. The new investment-cost system negotiated under CETA can only be put into practice once all EU countries have completed their own domestic ratification procedures. Could the government leader please tell us the Government of Canada's response to the new trade test Canada faces? Do you feel confident that they will sign the agreement even though they threaten to kill it?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He is raising a very important matter and one that, certainly, the ministers responsible have already raised with the new Italian administration, as early as within a few days of taking office. Using the occasion of the G7, the foreign minister, as well as the Prime Minister, raised this with the Italian authorities.

I think it's important for us to use every occasion possible to show that CETA is working for Italy. Exports to Canada of Italian products increased 8 per cent in the last year, from $7.54 billion in 2016 to $8.15 billion in 2017. All economic and significant parts of the CETA are in force. Senators will know that this includes tariff-elimination services and temporary entry commitments and, certainly, government procurement obligations, and the existing arrangement addresses or eliminates barriers in all sectors and aspects of the bilateral trade. The Government of Canada is working with all of our CETA partners to ensure the next phase of ratification, which is at the national level.

Senator Oh: Canada and Italy are already involved in a series of trade disputes surrounding our export of durum wheat and discriminatory country-of-origin labelling that Italy has imposed. According to Cam Dahl, President of Cereals Canada, in less than a year, $500 million in exports have dropped to zero due to protectionist measures imposed by the Italian government that are completely outside of our trade agreement.

When the Minister of Agriculture appeared in Senate Question Period three weeks ago, he indicated that the government was evaluating whether or not to make an appeal to the World Trade Organization.

Senator Harder, do you know if the Government of Canada has decided whether to launch a challenge against Italy's labelling rules through the World Trade Organization?

Senator Harder: Again, I thank the honourable senator for his question. Clearly, the matter is one that the government is still reviewing. It is doing that in the context of the new posture of the new government of Italy. Clearly, it is in Canada's interest that the implementing legislation for the CETA be dealt with as quickly as possible and that we all point to and share the economic opportunities of the CETA in its full implementation.

The Government of Canada, of course, will continue to use all measures available to advance and protect the interests of Canadian exporters. That includes the possible use of the WTO.

FISHERIES AND OCEANS

VIABILITY OF THE FISHING INDUSTRY

Hon. Percy E. Downe: Supplementary to the question asked earlier on the importance of balancing the safety of the whales that, I understand from aerial photos, actually do come very close to the shore and the importance of the American seafood market so that our products aren't banned and, particularly, as well, the European market. We all understand, on the East Coast, the value of the fisheries, lobster and others. We also understand what happened to the seal industry when activists, particularly in Europe, basically destroyed that industry, and if any more whales happen to be killed or die for whatever reason, we could be in a similar situation. I assume the government is also taking that balance into consideration in their studies.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. When I referenced that the Minister of Fisheries is taking the best interests of the fisheries into account, that's exactly the situation. The minister's responsibility is the long-term interests and viability of the fisheries, not just from an ecological point of view but from a potential market point of view.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

DIPLOMATIC RELATIONS WITH IRAN

Hon. David Tkachuk: Senator Harder, regarding the government's support last week for the motion on Iran, welcome as it is, it is not just a reversal of the government's earlier policy but completely contrary to it. The old policy stipulated that dialogue with Iran, not withdrawal and isolation, is the best way to advance Canada's interests, but now the government seems to have concluded that dialogue and engagement are useless when it comes to Iran, as some of us who voted for Bill S-219 predicted and as you admitted in your non-answers to my questions last week. What you said last week, in explaining the reversal, is that the lack of progress has certainly led the government to the new position it has taken and that that position will be the position of the government until and unless there is movement.

Then you went on to explain:

> . . . engagement has to be preceded by a more accommodating concern to the interests that have been stated.

But:

> That doesn't obviate the objective at the right time and in the right conditions of moving forward with an engagement. . . .

Senator Harder, we abandoned the policy of engagement because it didn't work, but, as you put it, as soon as the new position we have taken gets us movement — in other words, does work — we will abandon that position and go back to the policy of engagement that didn't work. Do I have this correct?

Hon. Peter Harder (Government Representative in the Senate): For a so-called non-answer, the honourable questioner is certainly focused on the answer. Let me repeat that, unlike the conclusion the honourable senator has made with respect to the vote in the other chamber, it is the view of the Government of Canada that it is time to make absolutely clear to the Government of Iran that there will be no progress on an engagement strategy unless and until the consular matters that have been raised repeatedly at the highest levels of our government with the Government of Iran have been resolved. That is the point that I was delighted that all parliamentarians made last week, and I think it would benefit from us all to share that point of view and do all we can to achieve the release of those being detained unlawfully, in the view of the Government of Canada, in Iran.

Senator Tkachuk: So, in other words, as soon as the consular issues have been resolved, then what happens? What will our policy be towards Iran? The same as it is now, or will it go back to the old policy?

Senator Harder: Well, senator, I could say that's a hypothetical situation. It's certainly hopefully hypothetical in that it assumes that the efforts to resolve the consular issue take place. But let me simply say that there's an obstacle to renewed engagement, and that obstacle needs to be removed before there can be any contemplation of engagement.

VIETNAM—CYBER SECURITY

Hon. Thanh Hai Ngo: My question is for the Leader of the Government in the Senate.

On June 12, the Communist Vietnam National Assembly passed a controversial cybersecurity law requiring tech giants like Google, Apple, Samsung, Facebook, Twitter and LinkedIn to share all of their Vietnam-based user information. This new law squarely targets free expression and access to information. It is a draconian measure to provide an already corrupt Communist regime with one more weapon to prosecute people for their peaceful online activity. On June 8, the United States embassy in Vietnam issued a statement before the bill was adopted, in which it voiced Canada's position stating that:

• (1450)

> We find the draft cyber law currently before the National Assembly may present serious obstacles to Vietnam's cybersecurity and digital innovation future, and may not be consistent with Vietnam's international trade commitments. The United States and Canada urge Vietnam to delay the vote on the draft law to ensure it aligns with international standards.

Can you tell us why the United States embassy in Hanoi is speaking on behalf of Canada on this matter and why our own embassy did not release a similar statement?

Hon. Peter Harder (Government Representative in the Senate): I obviously will make inquiries for the honourable senator. But let me say it's not unusual, when we see concerted action with other countries, to have that concerted action reflected in statements made by more than Canada. It ought to be welcomed that the Government of Canada is seeking to align itself with other like-minded countries on matters such as the one he is raising.

Senator Ngo: Thank you, senator. It would be as important for our embassy in Hanoi to be public about this joint position when countries like China and Vietnam seek to rewrite the rules of the Internet. Why does the Vietnamese Communist Party state this essential law would fight cybercrime? This measure would be used to further legalize the ongoing crackdown on online dissent and bloggers.

Now that the law has passed, can you tell us how the Government of Canada will react to this new challenge to freedom of expression and online freedom?

Senator Harder: Let me simply say that the Government of Canada will continue to use every occasion to express its views to a sovereign state with respect to its actions. The Government of Canada will also ensure that for agreements such as the TPP, of which Vietnam is a member, the countries are all living up to the obligations they have in that agreement. That is why it is good to have multilateral agreements so that we can hold countries to account.

[*Translation*]

CANADIAN HERITAGE

RENOVATIONS AT PRIME MINISTER'S SUMMER RESIDENCE

Hon. Jean-Guy Dagenais: Leader of the Government in the Senate, according to the media, some major renovations have been done, at taxpayers' expense, at Prime Minister Trudeau's summer residence, Harrington Lake. Collectively we have paid $12,000 for new docks, $10,000 for a patio, $7,500 for a swing set, and $4,000 for electrical work to service the new sauna, plus more for a golf cart, two kayaks, a canoe, and the list goes on.

Given that the Prime Minister's official residence, to be used by the current and future prime ministers, has needed renovations for quite some time now, can you explain why the Prime Minister has chosen to do renovations at his cottage rather than the official residence at 24 Sussex Drive?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, let me simply repeat what all senators will know, that these properties are owned on behalf of Canada by the

National Capital Commission, and the upkeep of and responsibility for these properties are independent of the Prime Minister's choices.

The Hon. the Speaker: Honourable senators, time for Question Period has expired.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable Senators, pursuant to rule 4-13(3) I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: second reading of Bill C-80, followed by all remaining items in the order in which they appear on the Order Paper.

[*Translation*]

APPROPRIATION BILL NO. 2, 2018-19

SECOND READING

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate) moved second reading of Bill C-80, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2019.

She said: Honourable senators, Bill C-80 is the second appropriation bill for the 2018-19 fiscal year, entitled An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2019.

The bill authorizes the government to spend $82 billion, which is on top of the $30.9 billion we authorized at the beginning of the 2018 fiscal year in Appropriation Bill No. 1.

[*English*]

Before I continue, I would like to thank all the senators who participated in the Standing Senate Committee on National Finance and, more specifically, the chair of the committee, Senator Mockler.

[*Translation*]

I would also like to acknowledge the excellent work of all the senators who participated in the committee work. The committee studied the Main Estimates and tabled a report that includes 15 observations in that regard. I read the committee's report very carefully.

I would like to point out, for the sake of new senators, that one of the key roles of the Standing Senate Committee on National Finance is to ask the executive branch questions and rigorously analyze the way the government is spending taxpayers' money. We do not have to vote on the committee's report, but it helps us understand the nature of the expenditures that we will be authorizing in Bill C-80. It summarizes the work done by the committee in order to make the government accountable for its decisions.

[*English*]

As you recall, the government forecasts to spend a total of $276 billion in public expenditures in the current fiscal year. This constitutes an increase of 7 per cent over last year. Transfers to individuals and other governments represent a sum of $171 billion. This is 62 per cent of the total federal public expenditure.

Parliament doesn't have to vote the total amount of expenditures. Instead, a big proportion of expenditures, 59.1 per cent, is composed of statutory items. They are expenditures made through programs that have already been voted, such as family allowance, Old Age Security, social transfers to the provinces, et cetera.

However, the Main Estimates provide information on those items. These expenditures can increase or decrease according to multiple factors, such as demography, unemployment, inflation and other reasons.

[*Translation*]

That being said, over the course of a fiscal year, Parliament has to pass two laws authorizing the government to spend money on other non-statutory programs. These non-statutory expenditures, which are referred to as voted appropriations, include most of the Senate expenses, public service salaries, many of the grants and contributions awarded to public organizations, and new expenditures introduced in the last budget. In March, we passed Appropriation Bill No. 1, which authorized the government to spend $30.9 billion.

Today, we have before us Appropriation Bill No. 2, which asks Parliament to authorize expenditures of $82 billion for charges and expenses for the fiscal year ending on March 31, 2019.

Honourable senators, I will be brief. I do not intend to explain in detail the expenditures listed in both official languages in the 58-page bill. You can also read the report of the committee, which studied 61 per cent of the voted appropriations in the Main Estimates. However, allow me to make some specific comments about Bill C-80 and other remarks of a procedural nature.

First, as I explained last March, the government has reformed the budget cycle in order to make it more transparent and to respond to numerous criticisms that the appropriation bills did not reflect the budgetary choices made by the Minister of Finance. As you know, in previous years, the Main Estimates preceded the Minister of Finance's budget, which therefore could not include the new expenditures or even cuts in the budget.

[*English*]

The present reform undertaken by the President of the Treasury Board, Minister Scott Brison, seeks to incorporate in the Main Estimates for the current fiscal year all budgetary choices made by the Minister of Finance. This is the first year that the Main Estimates are incorporating the budgeted expenditure of the Minister of Finance. This year is a year of transition.

• (1500)

[*Translation*]

This reform should reduce the number of supplementary estimates in the future to two.

My second comment is that the new format incorporates a new vote for the Treasury Board of Canada Secretariat. This is the famous vote 40, which grants authority to the Treasury Board to provide appropriations to any department or organization listed in Annex 1 of the Main Estimates in support of initiatives announced in the Budget of February 27, 2018.

Colleagues, you should know that there is an annex in the budget document that gives a breakdown of vote 40 in Table A2.11, which starts on page 332 of the English version. This same document was reproduced in Annex 1 of the Main Estimates and incorporated into Bill C-80. Members of the committee had questions about this $7-billion appropriation, and the minister answered them on June 7 when he appeared before the Standing Senate Committee on National Finance. He said, and I quote:

[*English*]

> By law, Mr. Chair, the money can only be spent on the measures announced in the budget tabled on February 27, 2018. Treasury Board does not have any discretion to use the funds for any other purpose. As the Auditor General has said that ". . . you have to allocate it on that basis, you can't just decide somebody else should get more and somebody else can get less."
>
> . . . Specifically, parliamentarians will be able to track each and every allocation from this new central vote to a specific line in Table A2.11 of the budget, which is repeated in Annex 1 of the Main Estimates.

[*Translation*]

That is how the minister responded to the criticism that we had not received any details on this spending, by noting that the information is presented in this document.

The third thing I want to say is that, just to clarify, more details on the expenditures of the various departments can always be found in the departmental plans, which are tabled at the same time as the Main Estimates. However, since this year is a year of transition, the departmental plans have not yet been fully harmonized, given that, as I said, this is a gradual process. Still, anyone who wants more details can consult the monthly reports posted online, the next Main Estimates, and the departmental results reports at the end of the fiscal year.

I also want to add that the minister said he had drawn inspiration from Australia, a country recognized as a gold standard. His goal is to eventually be able to table the Main Estimates when the Minister of Finance tables the budget. So at some point in the future, I don't know when exactly, the Minister of Finance will table the budget and the Treasury Board President will table the Main Estimates at the same time. Some provinces already follow that procedure, but the federal government does not, hence the lack of harmonization between the two budgets. So please stay tuned. This is a complex procedure, as the Treasury Board officials explained to the Finance Committee.

Now, with respect to procedure, I want to state that in practice, supply bills are not sent to committee even though they could be. The report on the Standing Senate Committee on National Finance's study on the Main Estimates serves as a study of the bill, since the bill is essentially a copy, or summary, of the Main Estimates. I invite you to have a look at Bill C-80 on LEGI*Sinfo*. The bill consists of a series of pages with figures for each department and it essentially a less detailed version of the Main Estimates.

In addition, with leave of the Senate, for procedural questions, I would remind you that when the bill is adopted at second reading, we can also decide to proceed to third reading during the same sitting. We can do this, but it has been our practice that we leave one day between the second and third readings.

Thank you for your attention.

Hon. Percy Mockler: Honourable senators, I have a follow-up on Bill C-80, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2019. After attending several meetings and hearing from various witnesses, departmental representatives and senior officials, the committee members have some concerns. I would like to take this opportunity at second reading of Bill C-80 to raise some of these concerns. We asked the government and we are now asking the Government Representative in the Senate to respond and to follow up on the observations made by the various committees.

Honourable senators, the bill before you today, Appropriation Act No. 2, 2018-19, provides for the release of supply for the balance of the Main Estimates 2018-19. In the past, the government drafted five appropriation acts throughout the fiscal year. These included interim supply, an initial payment to fund departments from April to July 2018; the balance, a second payment for June to the end of the fiscal year on March 31, 2019; and three supplementary estimates to fund new budgetary programs and other unanticipated costs arising during the year.

[*English*]

Honourable senators, for the first time, as a result of government reforms, these estimates should include all budget measures. Quoting directly from page 1 of the Main Estimates 2018-19:

> Through this vote, these Main Estimates will include 100% of Budget 2018 incremental spending measures, improving Budget-Estimates alignment and eliminating some of the time lag between announcement and the implementation of programs.

Honourable senators, the government is seeking Parliament's approval to grant a little less than $276 billion for the entire year in this one ask. Going forward, there will only be two supplementary estimates, not three.

The cost to parliamentarians — and effectively all Canadians — is that our role to provide oversight is taken away. However, the government argues:

> To get the cash out of the door, things will work a lot easier if we just cut Parliament out of the process.

The objective is about accountability.

• (1510)

So, honourable senators, somewhere within the $276 billion, the government has a $7 billion vote, called vote 40, that they will use after we approve the bill to pay for all the items in Budget 2018.

[*Translation*]

Honourable senators, it is important to understand that vote 40 will take Parliament's authority and give it to the government. As a result, that $7 billion will not have to go through the Treasury Board submission process, which is overseen by Parliament. That means there will be less transparency, less accountability, and fewer detailed reviews of votes. This will basically create a discretionary fund for the government, which, if it really wants to, can transfer that money from one program to another as it sees fit. It is what one of our colleagues called a "slush fund."

The Standing Senate Committee on National Finance prepared a short analysis, which is presented in our thirty-first report, the *First Interim Report on the 2018-2019 Main Estimates*. We are asking permission to present the committee's reports and to share our comments at the same time, because the report explains the work that the Standing Senate Committee on National Finance does to assess the expenditures set out in the appropriation bill.

[*English*]

Honourable senators, I will take a few minutes to bring to your attention some of the major concerns that Canadians have.

Public Services and Procurement Canada will receive $307 million to address issues with the Phoenix pay system. We believe it is important to stabilize Phoenix, but as the government considers options to replace the pay system, it needs to provide assurance to all employees of the public service that they will be paid accurately and on time and that the employees of the public service pay system will receive sufficient support and training to deal with the current pay system as well as any future system.

I'll give another example of our concerns. Employment and Social Development Canada is receiving an increase of $62.2 million in Budget 2018-19 for the Youth Employment Strategy. As the government invests additional funds in this particular strategy, it should make sure that the strategy is meeting the goal of helping young people find and keep meaningful employment.

I will conclude with another example. Environment and Climate Change Canada is responsible for managing the $2 billion Low Carbon Economy Fund, to help communities reduce carbon emissions, and the federal carbon backstop which would be put in place in provinces and territories that don't implement a price on carbon. We believe that the department should ensure that its carbon-pricing regime takes into account the effect it would have on the competitiveness of emissions-intensive, trade-exposed industries.

Honourable senators, we have before this chamber our second appropriation bill of the year, which will allow funds to be released based on the requirements outlined in Bill C-80. You will see a long list of schedules and votes, as was indicated by the previous speaker.

These schedules and votes outline the portion of total funding that requires Parliament's approval of $112.9 billion identified in estimates under voted appropriations.

Honourable senators, let's remind ourselves that this level of spending is not balanced spending. Last year, the total expense by the government was $327.1 billion, which generated a deficit of $18.8 billion.

Honourable senators, the PBO estimates total expenses for 2018-19 will be $346 billion, resulting in a $22.1 billion deficit.

This year's Main Estimates 2018-19 requests $275.97 billion, which is $18.1 billion, or 7 per cent, greater than the total budget authorities identified in estimates 2017-18. Again, those sources are from the PBO.

Honourable senators, Canadians from coast to coast to coast are very concerned for their children and their grandchildren and their quality of life.

[*Translation*]

Honourable senators, as the chair of the Standing Senate Committee on National Finance, I would like to acknowledge the dedication and determination of the committee members who are trying to show Canadian taxpayers where their tax money is going.

[*English*]

On this, our committee will continue to strive to help Canadians and government to understand and have the main objectives that all of us sitting in this august chamber have, which are transparency, accountability and predictability.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable senators, I rise to speak to Bill C-80 at second reading. It is often through numbers that we are able to see what governments are really doing. I therefore wish to draw your attention to the government expenditures associated with Bill C-80. I would also like to share with you my concerns about the impact that these expenditures will have on young people and on the fight to eliminate impaired driving.

First, Bill C-80 does not increase spending to support justice services for youth in trouble with the law, although the needs will be more and more pressing in the years to come. It is important to note that, from 2003 to 2012, the crime rate among youth aged 12 to 17 rose by 30 per cent in Quebec. There are urgent needs in youth centres, which are overflowing with young offenders. Canadians, and particularly parents, deserve to know what will happen to the Youth Justice Services Funding Program with this bill and why the federal government cut the program's budget.

Funding under the Youth Justice Renewal Initiative and Contributions to the Provinces and Territories in Support of the Youth Justice Services will not increase until 2019. Instead of ensuring rigorous planning, the government is improvising.

The Youth Justice Services Funding Program provides financial assistance to help the provinces and territories provide a slate of programs and services to youth in trouble with the law to encourage accountability, rehabilitation and social reintegration.

Coming from a government that wants to legalize marijuana and increase young people's involvement with the justice system, we would have expected, at the very least, an increase in these budgets.

There is also another contradiction in Bill C-80. Funding for drug treatment courts will be cut. This program seeks to foster and reinforce the use of alternatives to incarceration when an offender has addiction issues.

When we analyzed the Main Estimates for 2018-19, specifically Table 126 entitled "Listing of the 2018-19 Transfer Payments — Department of Justice," we saw a decrease in funding from what was allocated in 2016-17. In 2016-17, $3,646,000 was allocated to the courts' actual expenditures. In 2017-18, however, the government allocated $3,631,276, which is almost $30,000 less. That same reduced amount is in the Main Estimates 2018-19. Therefore the budgets will be reduced for three years.

• (1520)

However, the Drug Treatment Court Funding Program is more important than ever, considering the current opioid crisis and the legalization of cannabis. Just this morning in fact, *Le Devoir* reported that opioids and cannabis resulted in the deaths of over 4,000 Canadians last year, which is up 33 per cent over 2016. Overdoses linked to those drugs are now the leading cause of death in men aged 30 to 39.

Canadians are justified in wondering about this government's logic and its long-term vision. In fact, a more appropriate question would be, "Does it even have a vision?"

I would like to draw to your attention another blatant contradiction in the Trudeau government's approach. The government promised to invest $80.5 million over the next five years as part of its Federal Tobacco Control Strategy, yet it is investing less than that in cannabis awareness and education campaigns. In fact, prevention and education initiatives for cannabis use will get a total of $62.5 million over five years, which is about $18 million less than the government is spending on its anti-tobacco efforts.

Finally, significant cuts are also being made to budgets for the repurposing of RCMP laboratories responsible for sample analysis. This is quite simply unacceptable in the current context where the government claims to want to enhance road safety while at the same time legalizing marijuana.

I went over the RCMP budgets from 2017 to 2019 and I see no budgetary increase for the RCMP labs. Instead there are cuts to the tune of $1 million for this year and $2 million for next year. The government will reduce this budget to $3 million in three years. For the two subsequent years, we see no increase in the budgets. However, the National Forensic Laboratory Services provide support for the enforcement of impaired driving laws, including the forensic analysis of biological samples for drugs and alcohol and the provision of expert witness support to the courts.

On May 3, 2018, during his testimony before the Standing Senate Committee on Legal and Constitutional Affairs, Wade Oldford, Chief Superintendent and Director General of the RCMP National Forensic Laboratory Services, explained that the RCMP labs were not meeting demand. He said, and I quote:

> It is important to note that NFLS's forensic services, including forensic toxicology, are currently operating at or close to full capacity.

He added the following:

> It is anticipated that there will be a significant increase in workload for drug-impaired service requests with the introduction of roadside testing.

It is also anticipated that there will be a significant increase in the requirement for pretrial technical and scientific support by forensic toxicologists to prosecutors.

This official was never able to explain these budgetary cuts. I find it inconceivable that in this context the government is cutting funding to the RCMP labs.

Honourable senators, I will certainly not be voting in favour of Bill C-80. This bill only confirms the lack of planning and logic in this government's approach to legalizing cannabis. Young people will be the biggest losers in all this. This government missed a great opportunity to adopt a long-term approach to the youth justice system in the context of cannabis legalization.

Thank you.

Hon. Senators: Hear, hear!

[*English*]

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to Bill C-80, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2019.

I did note Senator Bellemare's reference to the government having reformed the budget process to make it more transparent, but I am concerned about one issue regarding this bill that moves away from transparency and accountability; that is, the $7-billion line item included under Treasury Board. The Parliamentary Budget Officer has said that this would remove the need for more than $7 billion worth of spending to undergo the scrutiny of the current Treasury Board submission process. That move, says the Parliamentary Budget Officer, will mean that "due diligence will no longer be performed on new budget spending measures before the government asks for Parliament's assent."

Over and over, the PBO has told us that we will be giving up much of our parliamentary oversight of how this money is spent. It is a fund managed separately and kept somewhat hidden from view — what some have termed a "slush fund." I want to make it clear, I'm not necessarily suggesting that anything illicit may come of this more than $7-billion ask, but I find myself wondering what it might do for my home territory of Nunavut.

Will this $7 billion go to much-needed infrastructure projects, like the ones recently rejected by Transport Canada in its national transportation corridor fund such as the Grays Bay Road and Port project; the Pangnirtung Airport relocation, the Kimmirut Airport relocation, the Kivalliq Road or the Qikitarjuaq marine project. Perhaps this $7 billion could help provide money for more deep-water ports, search and rescue equipment, or desperately needed housing up North. Could it be possible that some of this $7 billion could go toward mental health facilities, program support for community health care centres, or recreational facilities? Without the appropriate scrutiny, I don't know how possible that would be.

Colleagues, I would prefer to have had the more than $7 billion set aside in this bill for future budget asks. I would prefer to know exactly where this money is going so that I can hold the government to account and keep them to their word. But instead, I understand I will receive a note after the fact on decisions that will have been made without the level of scrutiny that we have come to expect and require when the government spends vast sums of Canadian taxpayer dollars.

Honourable senators, I cannot in good conscience support the government's move to set up a separate $7-billion fund that is not managed with the same scrutiny and oversight as other funds. The Parliamentary Budget Officer is an agent of Parliament, whose mandate is to:

> . . . provide independent analysis to Parliament on the budget, the estimates and other documents, as well as matters of particular significance relating to the nation's finances or economy listed in the PBO's annual work plan; and at the request of a committee or a parliamentarian, to estimate the financial cost of any proposal that relates to matters over which Parliament has jurisdiction.

Why would we then not heed warnings that this is a dangerous move? Should we not respect the advice of those whom we have selected to be agents or officers of Parliament? This is why I cannot and will not be voting in support of Bill C-80. Thank you.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Bellemare, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

• (1530)

[*Translation*]

CANNABIS BILL

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENT AND NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Mitchell:

That the Senate agree to the amendment the House of Commons made to Senate amendment 31 to Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts;

That the Senate do not insist on its amendments 3, 4, 7, 8, 9, 11(a), 17(a), 23, 25, 26, 32, 33 and 38, to which the House of Commons has disagreed; and

That a message be sent to the House of Commons to acquaint that house accordingly.

Hon. Claude Carignan: Honourable senators, today we are faced with a very unique situation. Our chamber has done an exceptional study of Bill C-45. We heard from more than 240 witnesses and received a number of submissions. We asked relevant questions and got clear answers in most cases. We took the time to reflect, and we had a mature debate, since this is our fundamental role. This is essentially what we are debating right now: the role of the Senate.

I must admit that I'm disappointed in the government's position. Its response shows little consideration for the impeccable, non-partisan work we did. Nevertheless, that is its prerogative.

With respect to the message from the House of Commons, I want to start by talking about amendment 25 on transparency and the disclosure of the names of directors, officers and members of companies that produce cannabis.

I don't understand the government's position. It wants to get organized crime out of the cannabis market. However, the Royal Canadian Mounted Police has been clear. No matter what the government claims, legalizing marijuana will not remove organized crime from the illicit trade of this drug.

I want to share a quote from commissioner Kevin Brosseau. He said:

> Given the involvement of organized crime in the illicit cannabis market, we do not expect the legislation will eliminate the presence of organized crime in the cannabis market. It will reduce it but it will not eliminate it.

Over half of the cannabis that the Société des alcools du Québec is planning to buy will be sourced from companies financed through tax havens. Quebec has signed contracts with six companies to supply the Société Québécoise du cannabis, a wholly owned subsidiary of the SAQ that will have a monopoly on cannabis sales in Quebec. Three of those companies, which will supply 33,000 of the 62,000 kilos of marijuana Quebec plans to buy in 2018-19, are getting tens of millions from tax havens.

To my great surprise, the government rejected our amendment on tax havens. I can only conclude that the Prime Minister supports using tax havens to invest in companies that grow cannabis while avoiding being taxed in Canada. In all, 35 of the 86 producers authorized by Health Canada, which is 40 per cent, have received offshore funding in the past two years.

Honourable senators, I'm sure you will agree that, if we want to combat organized crime, the thing to do would be to prevent it from participating in the legal cannabis market anonymously or via tax havens. Senators were strongly in favour of this amendment, and the government's decision to reject it renders me speechless.

Transparency International Canada had this to say about my amendment:

> This amendment is a crucial and important step forward to unmasking those who could abuse cannabis producing corporations and trusts to hide the source of funds and wealth of their beneficial owners.

The government's response was incomprehensible. It reads as follows:

> respectfully disagrees with amendments 17(a) and 25 because other Senate amendments that the House is accepting would provide the Minister with expanded powers to require security clearances and because amendments 17(a) and 25 would present significant operational challenges and privacy concerns.

We have to understand that faced with an operational challenge, the government is turning its back on its responsibility to eliminate organized crime from the cannabis industry. Is that not precisely the goal of Bill C-45?

In addition, we now have a message from the House of Commons that has left me dumbfounded. In their previous statements, the Prime Minister and some of his ministers indicated that the federal law would apply and that the bill would authorize the home cultivation of four plants even though Quebec and Manitoba are opposed to home cultivation. In doing so, the government is sowing confusion in the minds of Canadians. We should not forget that Bill C-45 will amend the Criminal Code. It is important to remember that federal jurisdiction over criminal law is the basis for the federal government's intervention in this file. The three elements of a valid criminal law are (1) a prohibition, (2) a sanction that supports it, and (3) a public objective that connects it to criminal law.

Essentially, honourable senators, the Criminal Code prohibits certain behaviours. The exercise of jurisdiction does not permit creating a right or promoting an action. At the hearings, the government representatives mentioned that the clause on home cultivation did not create an entitlement. In fact, on March 21, Ms. Labelle, from the Department of Justice, indicated the following:

> I can say, though, that the legislation was carefully crafted so as to not create an entitlement or a right. How a challenge would come up I'm not certain. It's not a right of possession. It's not an entitlement of possession. It's simply the fact that the criminal law does not apply to that.

In its response, the government is still vague and fuels confusion over these important distinctions.

This is the message regarding amendment 3:

> respectfully disagrees with amendment 3 because the government has been clear that provinces and territories are able to make additional restrictions on personal cultivation but that it is critically important to permit personal cultivation in order to support the government's objective of displacing the illegal market;

Anyone the least bit perceptive would understand from reading this text that the federal government is claiming that it is allowing home cultivation instead of lifting the prohibition for less than four plants at home.

In Reference re Assisted Human Reproduction Act, Chief Justice McLachlin said the following regarding federal jurisdiction in criminal law:

[*English*]

> In my view, the requirement that a criminal law contain a prohibition prevents Parliament from undermining the provincial competence in health. The federal criminal law power may only be used to prohibit conduct, and may not be employed to promote beneficial medical practices. Federal laws (such as the one in this case) may involve large carve-outs for practices that Parliament does not wish to prohibit. However, the use of a carve-out only means that a particular practice is not prohibited, not that the practice is positively allowed by the federal law. This has important implications for the doctrine of federal paramountcy. If a province enacted stricter regulations than the federal government, there would be no conflict in operation between the two sets of provisions since it would be possible to comply with both. Further, there would be no frustrations of the federal legislative purpose since federal criminal laws are only intended to prohibit practices. A stricter provincial scheme would complement the federal criminal law. . . . There may be a conflict between a criminal law and a less strict provincial scheme.

[*Translation*]

This leads us to take a closer look at this famous paramountcy of federal law where there is conflict with provincial law. What exactly does that mean? It means that duly passed federal legislation prevails over any equally valid, but incompatible legislation. For this principle to apply there needs to be conflict between the two statutes. There is a conflict in the following cases: (1) when the concurrent or complementary application of the laws is impossible, or compliance with one law leads to the violation of the other; or (2) when the provincial law conflicts with or obstructs Parliament's purpose. Based on the jurisprudence on the subject, the degree of conflict matters.

• (1540)

In *Droit constitutionnel*, 6th edition, authors Henri Brun, Guy Tremblay and Eugénie Brouillet argue, and I quote:

> The fact that the provincial law contains more stringent requirements than the federal law, or additional requirements, shall not cause an operational conflict. The litigant can comply with both: *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927, p. 963-964.

In its decision in *Quebec (Attorney General) v. Canadian Owners and Pilots Association*, [2010] 2 S.C.R. 536, paragraph 66, the court wrote, and I quote:

> The standard for invalidating provincial legislation on the basis of frustration of federal purpose is high; permissive federal legislation, without more, will not establish that a federal purpose is frustrated when provincial legislation restricts the scope of the federal permission . . .

In addition, in order for the principle of federal paramountcy to apply, the federal law must be valid and justifiable on the basis of the exercise, by the federal Parliament, of one of its jurisdictions.

Both the provincial law and the federal law have the same objectives, specifically keeping cannabis away from young people and eliminating the illegal market, to name just two. Both laws, federal and provincial, can co-exist without conflict. They are two separate paths leading to the same destination.

However, honourable senators, considering the government ministers' statements and the response from the House of Commons, I think it is crucial that we insist on maintaining amendment 3 to add an interpretive clause to Bill C-45 recognizing the provinces' authority to regulate and prohibit the use of cannabis at home.

Yesterday, Senator Harder delivered a long speech urging us to support the government's position. More than eight times, he said that the provinces could limit home growers to between one and four cannabis plants. He never mentioned zero plants. I challenge him to show us the clause in the bill that states that the provinces can limit the number to one plant, but not zero. He won't be able to do it, since there is no such provision in the law.

Senator Harder told us that condo owners could prohibit home cultivation, but not provincial governments. Senator Forest was quick to point out the obvious contradiction in Senator Harder's comments.

In April, Minister Fournier testified before the Standing Senate Committee on Legal and Constitutional Affairs and justified Quebec's prohibition of home cultivation, citing the need to protect youth. He said that allowing home cultivation creates opportunities for the illegal market. These are the same objectives as the federal government's, so the federal and provincial laws can't conflict.

MOTION IN AMENDMENT NEGATIVED

Hon. Claude Carignan: Therefore, honourable senators, in amendment, I move:

> That the motion be not now adopted, but that it be amended:
>
> 1. by deleting, in the second paragraph, the reference to amendment 3 and the word "and" at the end of that paragraph in the English version; and

2. by replacing the third paragraph with the following:

"That the Senate insist on its amendment 3, to which the House of Commons has disagreed;

That, pursuant to rule 16-3, the Standing Senate Committee on Social Affairs, Science and Technology be charged with drawing up the reasons for the Senate's insistence on its amendment 3, and that the committee present its report, with the reasons for the insistence, on or before the first day on which the Senate sits after the adoption of this order; and

That, once the reasons for the insistence have been agreed to by the Senate, a message be sent to the House of Commons to acquaint that house accordingly.".

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Andreychuk, that the motion be not now adopted, but that it be amended—

Hon. Senators: Dispense.

The Hon. the Speaker pro tempore: On debate.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I want to speak to Senator Carignan's amendment.

This important amendment seeks to correct a serious mistake in the message from the House of Commons received yesterday. We must insist that amendment 3 remain in Bill C-45. This amendment that we, Conservative senators, invite you to keep in Bill C-45 seeks to preserve Quebec's and other provinces' right to prohibit the home cultivation of cannabis if they wish to do so.

Senators, rejecting this amendment would go against the legitimate objectives of the Quebec National Assembly in passing a bill, a few days ago, that prohibits the cultivation of cannabis plants at home. That bill is the result of consultations with numerous experts and civil servants who understand Quebec well. Let me quote from the Quebec minister's speech at the National Assembly. She said:

> . . . we established a committee that included more than a dozen Quebec departments, as follows: Health and Social Services; Economy, Science and Innovation; Municipal Affairs and Land Occupancy; Agriculture, Fisheries and Food; Quebec Executive Council; Public Security; Quebec Ministry of Finance; Quebec Ministry of Justice; Labour, Employment and Social Solidarity; Transport, Sustainable Mobility and Transport Electrification; Education, Recreation and Sports; Higher Education; Aboriginal Affairs Secretariat; and Canadian Intergovernmental Affairs Secretariat.

Colleagues, I'm sure you understand that Quebec's position is based on the reality in Quebec. We can't ignore Quebec's legitimate position, which is backed by solid scientific evidence.

The Quebec government held its own province-wide consultations. Regional consultations were held in Rimouski, Quebec City, Saguenay, Trois-Rivières, Granby, Montreal and Gatineau. A total of 128 briefs were submitted by organizations, and 570 Quebecers participated in the consultations. The Quebec minister was present at every meeting. The format of the Quebec government's consultations was a forum of experts on cannabis regulation. Over 200 experts from various fields discussed Quebec-specific issues related to sensible regulation.

Quebecers were also invited to participate in an online consultation from August 21 to September 12, 2017. About 12,500 Quebecers completed the survey. The consultations done by the federal Task Force on Cannabis Legalization and Regulation look meagre by comparison, having attracted responses from just 2,000 Canadians. Six times more Quebecers gave feedback on the Quebec government's marijuana legalization bill.

Based on these consultations, Quebec passed its law. That law is based on health and public safety principles that are consistent with Quebec's position, which is to prohibit home growing. Quebecers want home growing to be restricted. As a senator from Quebec, I have a duty to represent Quebec in the federal sphere, in this chamber.

On June 13, Quebec's Minister for Rehabilitation, Youth Protection, Public Health and Healthy Living, Lucie Charlebois, clearly summed up the Quebec government's legitimate position by saying, and I quote:

> I expect our jurisdictions to be respected. If there is a legal battle to wage, we will wage it.

In a speech she made in the Quebec National Assembly on June 11, 2018, the minister responsible for this file explained one of the reasons. I quote:

> It would therefore have been logical and consistent for the minister to accept our proposal to legalize home cultivation and allow people to grow their own plants for personal use in order to, I repeat, minimize the harmful social consequences of exacerbating the social problems associated with the financial toll of addiction.

As a Conservative senator who defends the interests of Quebec in this chamber, I do not want to be part of this wedge that will be created between Ottawa and Quebec. I expect the federal government to respect the jurisdictions of provinces like Quebec and Manitoba.

When the Trudeau government says no to Quebec, it is saying no to the Quebec National Assembly. As the senator for the senatorial district of La Salle, which is in the heart of Quebec, I'm very proud to speak on behalf of Quebec in support of Senator Carignan's amendment. A vote against Senator Carignan's amendment is a vote against the National Assembly's legitimate right to enforce its own law, which was the result of intensive consultations. A vote against Senator Carignan's amendment is a vote in support of the irresponsible position taken by Liberal members of the Quebec caucus, who have not once spoken on behalf of their province in this debate.

• (1550)

Honourable senators from Quebec, the fundamental question you have to ask yourselves when you vote on Senator Carignan's amendment is the following: Am I representing the interests of Quebec or those of the Prime Minister of Canada?

The Hon. the Speaker pro tempore: Senator Boisvenu, would you agree to take a question?

Senator Boisvenu: Yes.

Hon. André Pratte: Senator Boisvenu, you talked about the exhaustive consultations that the Government of Quebec held on cannabis legalization. You mentioned that more than 12,000 people were consulted via the Internet. How do you interpret the fact that, of the 12,000 people who were consulted, more than 60 per cent said that they were in favour of home cultivation of cannabis?

Senator Boisvenu: I understand the position of those who answered the survey. However, scientifically speaking, and as a matter of public safety, the government believes that home cultivation of marijuana poses a risk to the health of young people and to social relationships. But that is the choice that Quebec is making, and as a senator from Quebec, I respect that choice.

Hon. Marc Gold: Honourable senators, as a senator from Quebec, I am rising in a spirit of transparency to explain to you why I am voting against the amendment.

First, as you know, I strongly support Bill C-45. I argued for and voted against a number of amendments, both in committee and in this chamber, because I felt that they were incompatible with the objectives of the bill. I voted against the other amendments because I was strongly against the idea of delaying the coming into force of the bill.

I supported the amendment on home cultivation, the matter before us today, and, in my opinion, the government was wrong to reject it. Nevertheless, I understand the government's argument, which does have some merit. I am not convinced, however, that prohibiting home cultivation necessarily compromises the objective of curbing the illegal market, especially when measures are taken to ensure that the price of legal cannabis in more remote areas is comparable to the price in urban centres.

Despite the solid arguments that were made in support of provincial prohibition and that were consistent with Bill C-45, I agree with Senator Carignan on this aspect of constitutional law, our favourite subject these days. I supported the amendment in question because it dispels the uncertainty surrounding the interaction between federal and provincial legislation. It also aligns with my sense of the fair balance that must be established between the legislative powers of the federal and the provincial governments.

Second, let's be clear on what is and what is not at stake. This is not an attack on provincial jurisdiction. It is also not a case of the federal government imposing a very centrist vision of federalism in order to destroy the provinces. On the contrary, Bill C-45 and the federal government's approach include a wide variety of means that provide for the recognition of provincial jurisdictions. That was clearly explained in Senator Harder's speech, and I will not repeat it here, but I will add one thing. The senator talked about where in the law was this reference to the provincial legislative powers mentioned. He said that it does not exist. This aspect does not need to be in the bill because of subsection 92(13) of the Constitution. It is clear that the provinces have the power to legislate and have done so in a number of ways.

I would like to add that I have no doubt that the federal power to legislate in criminal law is sufficient to support Bill C-45 in terms of the decriminalization of the possession or home cultivation of a maximum of four plants. This has nothing to do with constitutional law. Both areas of jurisdiction are present and are respected.

What, then, is the issue? It is simply a question of an argument on one branch of the doctrine of paramountcy in constitutional law. In that case, rejecting the amendment is simply about eliminating an area of uncertainty in terms of the scope of provincial jurisdiction.

I still believe that the amendment is a good idea, so why do I oppose Senator Carignan's amendment? I do so for two reasons. The first is my conviction that we must make our decisions on the basis of principle and ensure that our positions are coherent and consistent.

I support Bill C-45 and I still think that delaying the implementation of the bill would be a mistake. Although the government did not agree to the amendment, it did recognize, more so than it ever has before, the vast majority of provincial regulations and jurisdictions that are consistent with the approach of Bill C-45.

Honourable senators, we have done our job and done it well. We have been heard. We have discharged our duties to the people we represent. We are not here to represent provincial governments. We have discharged our duties to Canadians and Quebecers.

This brings me to the second reason, which is my understanding of the constitutional role of the Senate as an independent and complementary legislative institution within our parliamentary system.

Honourable senators, the Senate has, at times, insisted on its amendments, and that may happen again in the future. However, when I consider all of the competing viewpoints on the government's message, I have to conclude that this is not an attack on provincial jurisdiction, an attack on vulnerable minorities, or a case of the government's plan being unreasonable or irrational. It is a disagreement with some provincial governments about one branch of the principle of paramountcy in constitutional law.

I do not see this as enough of a challenge to trigger our constitutional duty to stand firm against the elected house's strategic decisions. The Senate's job is to provide an objective review of the legislation and, if necessary, improve it. Our role is also to improve on the work of the House of Commons within the

legislative process. That is what we did. In my humble opinion, it is now time to accept the House of Commons' legitimate decision. I will vote against the amendment. Thank you.

Hon. Ghislain Maltais: Honourable senators, I will not reiterate what senators Carignan and Boisvenu so capably explained, but I do want to talk about confrontation. We are heading toward a constitutional crisis. The Government of Quebec announced it. The Federal Government will have to face it, as will Manitoba, whose government also announced it. How did we get there? Simply because the Federal Government forgot one thing: to get the agreement of the provinces before venturing into this bill. It would have been so simple.

• (1600)

I would like to remind the Honourable Senator Gold that a constitutional crisis starts with little things. Given your young age, you probably do not remember the 1982 Constitution, which Quebec did not sign. Let me remind you that I was a member of the National Assembly at the time. It was quite a mess, and Quebec never signed the Constitution of Canada, in spite of the efforts of Prime Minister Mulroney and Premier Bourassa, in spite of the Meech Lake Accord and the Charlottetown Accord. We are still waiting.

Such a bill is an affront to the Quebec National Assembly and to the Legislative Assembly of Manitoba. Why? Because it infringes on the provinces' powers. I am sad to see that he is not listening to me. He would be well advised to listen. If, today, we have reached this point, it is because of a lack of consultation. A lack of consultation is an insult, and you are heading that way.

Look at what is happening right now in our country. God knows that among all parliamentarians, I am certainly one who has stood up for the Canadian federation in the past 35 years. I was there in all referendums advocating for Quebec to remain part of the Constitution of Canada. I spent 25 years of my life working for Quebec to remain part of the Confederation that was built by our fathers with the provinces in 1867. They did not build it on confrontation, like today, but on goodwill and respect for the jurisdiction of each partner. That is how the country we have today was built.

Regardless of what Senator Harder said, because I listened carefully to his speech, I would like to simply and kindly remind him with a smile that, if this is the new confederation—yesterday you welcomed me to the new confederation—then I don't want any part of it. I want a collaborative federation, a federation that gets along with the provinces and that avoids the kind of clash of the titans that we will be seeing with these two provinces and that we may see more of in the future.

Let's remember that a wind of change is blowing in the provinces. Your support is crumbling. In six months to two years, we will be your mainstay. Will the provinces support you then? The answer is obvious. If we are there, Mr. Speaker, then it will be because of a lack of agreement.

I represent the district of Shawinigan, the riding of the former prime minister you worked with, Mr. Speaker. The Honourable Jean Chrétien is part of my senatorial district. I also represent Quebec. I invite all senators to look at the certificate they signed when they were sworn in. It is their duty to advocate for the interests of their province. That means their legislative assembly, and in the case of Quebec, the National Assembly. We need to work together to avoid any conflict that will end up before the courts and that could last for years simply because we were unable to reach an agreement.

Is this the time for Canada to get involved in interprovincial disputes? According to bank reports, the economy is at risk of stagnating in the coming years. Canada cannot afford to get into a constitutional war that will end who knows where. There will certainly be losers. Will there be any winners? No. Neither the provinces nor the federal government will come out a winner, and all that, I humbly remind you, to implement a law to allow for the sale of drugs in our country.

Was it necessary? If Canada were at war, I would immediately approve any spending the government had to do to defend us. But to waste all this time just to let our country become a drug pusher? Surely there must be other things to do in our country. We don't need to have a constitutional showdown to get there. When the senators from Quebec rise to vote later on, I urge them to keep the best interests of their province and country in mind and to weigh the pros and cons. This is very important. When we all head home in a few days, we'll have to answer for our actions. We are Quebec's last line of defence, and I urge you to stand shoulder to shoulder with me.

[*English*]

The Hon. the Speaker: Question, Senator Lankin?

Senator Lankin: No, on debate on the amendment.

The Hon. the Speaker: I'll put you on the list.

On debate, Senator Pratte.

[*Translation*]

Hon. André Pratte: Honourable senators, out of all the amendments the Senate proposed to the House of Commons — the other place, I mean — there was one I considered to be especially important. It was the amendment to keep the issue of home cultivation in the provinces' jurisdiction. I considered the amendment especially important for two reasons.

The first is that home cultivation is stirring up a great deal of concern across the country, even among supporters of legalization. People are concerned about its impact on the illegal market, relations between neighbours, the safety of homes and children's health, among other things. True, some of these concerns are based on unrealistic scenarios, but many others are legitimate.

The second reason this amendment was so important is that the dispute between the Government of Canada and certain provinces, such as Quebec and Manitoba, will throw residents of those provinces into confusion for several years. This situation is legally and socially untenable.

The government rejected the amendment and argued that personal cultivation must be permitted in order to displace the illegal market. It is equally valid to argue that home cultivation will supply the illegal market, because it will be very difficult to control it, as was stated by all representatives of law enforcement agencies.

The federal government also maintains that for many people living in remote areas personal cultivation of cannabis will be the only means of legally procuring it. In reality, Ottawa does not know anything about this because the retail sale of cannabis will be the responsibility of the provinces, and nothing indicates that they will fail to ensure that all their residents have access to marijuana at a competitive price. It will be in their interest to do so because they too want to eliminate the illegal market.

[*English*]

The Senate's amendment proposed a flexible compromised solution to these problems — a solution based on the approach the Supreme Court has repeatedly called for in instances such as this, where the jurisdiction of the federal and the provincial governments overlap: cooperative federalism.

In the case of home cultivation of marijuana, the Government of Canada is using its criminal law powers to impose on the provinces a positive right to grow cannabis — a right derived from the federal criminal law power that applies to all dwellings of the country, irrespective of the circumstances and the choices of the different regions.

• (1610)

According to the Government Representative's speech last night, a single plant separates the provinces and the government since it will be permissible for provinces to lower the number of plants that people are allowed to grow at home. It may appear like a single plant, but behind this plant lies an important principle: Can provinces freely legislate within their areas of jurisdiction, in this instance, property and civil rights, or does federal paramountcy apply? The implications of this issue go far beyond the cannabis debate as each recourse to the paramountcy doctrine by the government and its interpretation by the courts has a crucial impact on the nature of the Canadian federation.

[*Translation*]

Personally, I am in favour of home cultivation. I think that since it will be a legal product, Canadians should be allowed to cultivate it, subject to strict limits, as set out in the Cannabis Act, provincial laws and municipal bylaws.

However, I acknowledge that the arguments against home cultivation are just as valid as those put forward by the Government of Canada. Since there are solid arguments on both sides, and since this is a shared jurisdiction, we would be better off giving the provinces some leeway to implement solutions that reflect their realities and the views of their residents.

The Government Representative in the Senate is right in saying that Bill C-45 allows for some flexibility, but this flexibility stops where the Government of Canada has unilaterally decided it should stop. I think it is clear that the amendment on provincial jurisdiction with respect to home cultivation is justified and reasonable. Unfortunately, the government does not feel the same way.

[*English*]

Many senators — and I'm one of them — reacted with a mix of disappointment and anger at the government's reply on this point, but emotion is a poor advisor in such circumstances, especially if you are to provide sober second thought. Today, we are here to decide not how we will express our frustration. We are here to decide whether we should vote in favour of the government's message or insist on this amendment.

Underlying this decision is our answer to two questions: Would we be able to convince the government to reverse its decision as regards this amendment, and, two, in whatever we choose to do, how best can we preserve, if not enhance, the Senate's reputation and credibility?

[*Translation*]

If we insist on this amendment, could we get the government to change its mind? Since the Prime Minister put his personal credibility on the line on this issue, I think it would be very difficult to change the government's mind. It would require a long battle, and the Senate would have to get a good number of Canadians on its side.

That scenario seems very unlikely right now. To be honest, I don't think that fight would be justified. Home cultivation of cannabis and provincial jurisdiction over it are certainly important issues, but they don't warrant a large-scale political crisis. What's more, the provinces have another recourse, namely the courts. That avenue, the legal route, is open to them, and that seems both wiser and more promising to me.

Under the circumstances, if a majority of senators vote to insist on this amendment, the most likely outcome would be that we insist just once. In other words, when the government rejects this amendment again 24 hours or 48 hours later, we would defer to the House of Commons. What would we have gained? We would only be humiliating ourselves. Many people would wonder why we kicked up such a fuss, only to rush off on our summer vacation afterwards.

That brings me to my next question. What can we say and do in the coming days to help preserve and, ideally, enhance the Senate's reputation and credibility with Canadians?

[*English*]

I bring this up because I believe that we should examine everything we do with the lens of the Senate's reputation and credibility. The Senate's credibility is fragile, as you know. The serious work done on Bill C-45 has contributed to its enhancement, but any faux pas at this stage could risk the modest gains that we have made. Insisting should be reserved for relatively rare cases where the issue is of special importance related to our constitutional role, where we are prepared to lead a serious fight and see its completion, when a significant part of

public opinion is or could be on our side, although there could be exceptions, and where there are realistic prospects of convincing or forcing the government to change its mind.

Let us see how the issue before us fits these four criteria. One, the matter of provincial jurisdiction over home cultivation of cannabis is important, but I don't think it is of such importance as to warrant an extraordinary intervention by the Parliament of Canada's upper house.

Two, as I said, my sense is that the majority here are not prepared to fight for a long period with the government on this issue.

Three, the chances of getting public opinion on our side are slim, except perhaps in Quebec, and even that is far from certain.

Four, the odds of the government changing its mind are very small.

[*Translation*]

Honourable senators, when it comes to home cultivation of cannabis, the Government of Canada chose a more uniform federalism over a cooperative federalism. It turned a deaf ear to the concerns of the more modern Senate that it created itself. This attitude leaves us feeling disappointed, angry and concerned. However, we must not allow ourselves to be guided by these emotions, because reason must prevail.

The credibility of the Senate as a complementary chamber will be all the greater if its interventions are measured and well chosen. This does not mean that we have to back down from every legislative battle. We have had to engage in battles with the government in the past and will have to do so again. However, if we are not invested the battles we engage in, the government and, most importantly, the public will soon stop taking us seriously.

Simply put, honourable senators, the issue can be summarized as follows: Should we provoke a crisis in Parliament that could last weeks, in the hope of getting the government to back down on the important but not crucial issue of home cultivation of cannabis? My answer to this question is no. Should we insist once as a symbolic gesture and then immediately defer to the House of Commons? My answer to this question is no as well.

For these reasons, and because I support the legalization of cannabis, I will be voting against the amendment proposed by Senator Carignan.

[*English*]

Colleagues, when Bill C-45 was tabled in the Senate seven months ago, there were many challenges on the road before us. However, we surpassed these challenges and completed a much more thorough examination of the bill than the other place was able to deliver. We proposed important, reasonable amendments. The government accepted only five of them, but these will make the cannabis act a better law.

In short, my friends, we can be proud, very proud, of the work that we have done. Now, if we insisted on this amendment to the bill, would we add anything significant to that work in the eyes of a Senate-skeptic Canadian population, or would we risk lessening or even setting aside the considerable value of the Senate contribution to this matter? Honourable senators, in my opinion, the gains at play in this vote are very improbable, but the risks are high, not for the government, not for any party or group, but for the Senate.

The Hon. the Speaker: Senator Pratte, would you take a question?

Senator Pratte: Of course.

Hon. A. Raynell Andreychuk: Senator Pratte, I've listened to you, and you've indicated that we should put such great emphasis on the Senate and its reputation. I understood our reputation should be based on following the Constitution and the Parliament of Canada Act in serving the public, and we should really take the arguments and the reasoned approach and listen to each other and see where that takes us to the public.

• (1620)

I certainly find it difficult, in your arguments, on the one hand, to hear you say that we should worry about the Senate, and then you anticipate what the house is going to do. This is a house of debate, so don't you believe that just by having this debate we bring more knowledge, more education, and maybe more Canadians will understand the issues? Isn't that one of our roles? Not just worrying about our reputation, but how we serve the public?

Hon. Senators: Hear, hear!

Senator Pratte: My sense of what most Canadians think at this moment and would think, if we insisted, is that I think most Canadians want us to pass the bill. That is my interpretation of what most Canadians think. We have debated this bill now for seven months. I think we have done our job. I don't think there will be much patience in Canada from most Canadians for to us delay passage of this bill.

As far as this particular amendment is concerned, for provinces who want to prohibit home cultivation, there is another way than the Senate standing in the way of this bill. The other way is the courts, and it is, I think, a much more promising way than the Senate creating a political crisis in Ottawa.

The Hon. the Speaker: Senator Tkachuk, on debate.

Hon. David Tkachuk: Honourable senators, Bill C-45 proves that you can't make a silk purse from a sow's ear, but God knows we tried. We moved 19 government amendments, actually, with nearly four dozen amendments in all moved by our caucus and the ISG. I hope that we are returning the message with Senator Carignan's amendment.

I wanted to say a few words on this bill as we move to a vote today, and while it will, when passed, be one of the few promises kept by the Trudeau government, it is the sad state of our nation that this is the promise the government will put in the window.

Attempts to make it better were rejected by the Liberal government. Two amendments in particular should make us all hesitant about the intent of the government and who is doing business with it: the transparency amendment brought forward by our critic, Senator Carignan, on companies active in the marijuana business; and the rights of provinces to forbid home growing of marijuana if they wish.

For a Senate that fights for strong, provincial rights in their own sphere, this is disconcerting. They can decide who sells it, they can decide where it is sold, but not if an individual can grow it at home. Most of the evidence suggests this is a good option. Why on earth would the government reject these two amendments?

I believe 50 years from now, if not sooner, the Government of Canada will be apologizing to the Canadian people for the havoc this bill will have brought to our nation. I find it amazing how the Liberal Party says it makes science-based decisions, except when it doesn't suit them to do so. Let's clear all the smoke away, if I can use that term, and admit that we know the following: We know that brain damage occurs in the brains of young smokers of marijuana, those below the age of 25; we know cannabis today is more powerful than it was decades ago; we know that police are not prepared to deal with driving under the influence of marijuana; we know more people will die on the highways, most of them innocent victims of another vehicle; and we know that criminals will now be selling legal drugs, as Senator White so strongly addressed in his speech, to underage teens.

Senator Pratte has said, "Well, you know, what about alcohol?" Well, what about it? Look at the misery caused by drunk driving, all the crosses on the roads we drive, all the clinics, and this was from something that at least has some redeeming social value. Most people drink without the intention of getting drunk, while marijuana intake is the opposite of that: People smoke to get high.

Smoking in most cases leads to immediate intoxication, THC rushing into your brain releasing dopamine unimpeded. Ingesting it takes longer, sometimes hours longer, but the effects last for up to eight hours. Because the effects take longer to kick in, many people will ingest more thinking it hasn't had any effect and then be rushed to hospital because they swallowed too much. Think this is improbable? Two police officers suffered exactly that fate last year.

Adult acceptance will undermine our arguments to our youth. Deterrence is preventive. To say people do it anyway is a false argument. We don't legalize stealing to promote social sharing. Education is the solution we should try as a decriminalized drug, not something you buy at a local pot bistro.

And if education is the solution, then where is the federal anti-drug program? Last Wednesday night, the federal minister responsible was lamenting on the CBC the fact that our drug policy does not work. We have the highest incidence of use in the world, he said. Therefore, we have to legalize it.

So the rest of the world has a lower incidence of marijuana, and they haven't legalized it. We know that none of these other countries has legalized marijuana. I'm a little wrong here. North Korea and Uruguay have, and that's who we want to look to for guidance. Yet the CBC reporter did not ask him that pertinent question. The whole interview was an advertisement for the minister and the Liberal Party on our state television network.

There is no logical thinking here. This policy is the result of a third-party candidate responding to a press question in B.C. before the last election. Then, in response to a question on decriminalization, Trudeau said, "No, we'll legalize it." No study, no party policy, no medical evidence. A vote grab.

There are two people leading our legalization efforts: Mr. Blair, who draws totally illogical conclusions; and Trudeau, who believes in spontaneous policy announcements.

At the end of all the work done in this place, all the amendments were rejected that were substantial. Then they have the nerve to say that they accepted amendments from the Senate. Technically, yes, but in actual fact, no: accepted were those prepared by the Government of Canada themselves.

Trudeau blames the Senate for the slow passage of the bill. He needed the time to fix the bill, though, with his own technical amendments. The only reason the Canadian public knows anything about this bill is the work of the Senate, and I include all senators who opposed and supported this bill. This debate put a lie to those wishing to get rid of the official opposition.

Senator Harder has a habit with nearly every controversial bill that is debated in this chamber of acting like nothing like this has ever happened before. This Senate has been studying bills and other studies for 150 years, and it is an insult to all those before us to say, "Wow, look at the great job we're doing as independent senators." Then they turn around and vote for the bill that includes a few of the amendments that we passed.

I'm here to tell you that serious debate in this place — and I've been here for 25 years — happened all the time and long before you all got here. In fact, if I were to judge, one of the best speeches in this place was given by Senator Carignan in his second reading speech on Bill C-45 in this chamber. I'm proud of him, as I am of all senators, and I'm proud of our caucus and for all the preparation that has gone into the study and debate of this bill. I support Senator Carignan's amendment.

Most, if not all, independent senators supported the bill. The official opposition forced government senators to defend their actions in committee and in this chamber. That's been good for the Canadian people, industry leaders that are going into the business of marijuana and, finally, those who will choose to use it.

Pierre Claude Nolin was a friend of mine, a colleague. I resent those that say we did not bring him into this debate. Senator Andreychuk talked about his study twice during this debate. His report was about a way forward before changing the laws. It is not a justification for what this government is doing. At the time, the Liberals were government and the majority here. It was never adopted by the Senate. It fell off the Order Paper.

Thank you.

• (1630)

[*Translation*]

Hon. Pierre J. Dalphond: Honourable senators, many members of this chamber have done an exemplary job in connection with Bill C-45, and they deserve to be thanked for their dedication and effort. I have followed the debate from a distance, especially through the media, which has shown an interest in the high quality of work achieved in this chamber of sober second thought and in its committees. Their efforts resulted in over 40 amendments to the bill received from the House of Commons. The Governments of Quebec and Manitoba both invited the federal government and the House of Commons to accept the amendments adopted by the Senate on June 7, amendments that I voted in favour of.

Yesterday, we received the response from the House of Commons informing us that it had accepted many of these amendments but that it had rejected the one that prompted my colleague, Senator Carignan, to move his amendment. We must now think about our response and decide whether we should insist that the amendment that gives the provinces the power to regulate home cultivation be re-examined by the House of Commons. We must decide whether, as rule 16-3(2) says:

> . . . the Senate insists on any of its amendments . . .

In my view, a response of the House of Commons — an elected House — calls for a high degree of deference from the Senate, since the elected members are ultimately accountable to the electors for their response.

Honourable senators, I submit for your consideration that the Senate should disregard the other house's response only under very specific circumstances and never based on political opinions about the policy objectives of the contemplated legislation. That was done at first, second, and third readings. We are past all that now. Instead, the rationale must be that the principles governing relations between the two chambers demand that the upper house maintain its position.

[*English*]

In other words, we have reached a point where we're not speaking about the content of this bill but the nature of the relationship we would like to establish between this house and the other house.

I submit that at this point we should only refer to criteria different than those I have listened to in the debate over the last few minutes. I know certain senators oppose the bill, and they have, in their opinion, good reason to oppose it, but this is no longer the object of the debate. The debate has moved way beyond this. We have to define the relationship.

Honourable colleagues, as an independent senator I humbly propose to you, especially those who are part of our group of independents, that we adopt, at this stage of the legislative process, a principle-based approach relying on objective criteria and not on personal political, economic, sociological or other views.

There were some previous statements in this chamber from experienced colleagues, far more experienced than me, I submit and acknowledge, and written texts by learned authors, such as Professor Thomas of the University of Manitoba. I believe we need to conduct a contextual analysis using the following criteria, and surely others.

First, if the response is accepted, will it result in legislation that clearly or most likely violates the Constitution or the Charter of Rights and Freedoms? If the answer is unclear, shall the task of answering that question not be left to the courts?

Second, is the purpose of the bill an election campaign issue for the government, or is it an extremely controversial issue for which voters did not give the government the mandate?

Third, does the evidence provided to both houses unequivocally show that the bill is fundamentally flawed and that the response, in part or as a whole, is thus plainly unreasonable?

Fourth, does the response show that the majority is abusing one or more minorities, showing contempt for language rights, demonstrating favouritism for one region at the expense of another?

Fifth, does the House of Commons' response reject Senate amendments designed to prevent unforeseeable and irreparable damage to the national interest?

[*Translation*]

The only point raised that would justify our insisting on our amendment following the House of Commons' response is that it would be beneficial to clarify the validity of a law passed by Quebec's National Assembly. With all due respect, it seems to me that my colleague, Senator Carignan, has shown that Quebec's attorney general would have very strong grounds for defending the constitutional validity of the National Assembly's law, were it to be challenged. Moreover, if the law is challenged, the courts, not senators, will rule on the matter. Determining the validity of the National Assembly's law is up to the Quebec courts and ultimately to the Court of Appeal and the Supreme Court — not, I respectfully submit, to the Senate. I trust my former colleagues to do an excellent job on that.

For these reasons, honourable senators, I invite you to vote against the amendment and in favour of the House of Commons' response. Thank you.

Hon. Pierrette Ringuette: Honourable senators, I wasn't really planning to speak at this stage, but Senator Carignan has given me a chance to share the results of my recent research. I did not speak at first, second, or third reading of the bill.

First of all, as a francophone from New Brunswick, I have always taken an interest in how Quebec legislates issues of social progress. As I see it, socially speaking, Quebec is the most progressive part of our country, and I commend it.

The question that I asked myself, and that we have discussed several times and received information about, is why did Quebec and Manitoba decide to prohibit home cultivation of cannabis?

It was Quebec in particular that first attracted my attention. The answer I received was that it was easier to prohibit home cultivation of cannabis than to control home cultivation of one to four plants. I found this argument a little dubious. I continued my research by studying Quebec's myriad authorization systems, and I changed my mind about the production of wine and beer at home. Paragraph 91(i) of the Act respecting offences relating to alcoholic beverages, chapter I-8.1, states:

• (1640)

[*English*]

IX. Possession of Alcoholic Beverages

91. No alcoholic beverage shall be kept or possessed in Québec, except . . .

(*i*) by a person in his residence, provided that it is home-made beer, cider or wine which is not kept for the purpose of selling it;

[*Translation*]

So beer and wine can be made at home provided they're not intended for sale. I am in total agreement with this principle.

I consulted Quebec's regulations on medical cannabis, which are highly relevant to the issue before us. Incidentally, the federal Access to Cannabis for Medical Purposes Regulations are SOR/2016-230, and they were explained by federal public servants in the following way:

> The limited amount is . . . authorized by an individual's healthcare practitioner . . . let's say the doctor had prescribed one gram a day. So that would be two plants if you were growing outdoors and . . . it would be five plants indoors.

You can see why I'm confused. It makes me wonder, why does the same province allow someone to grow five cannabis plants for medical purposes but zero for recreational purposes?

I continued my research by consulting several of my friends and relatives from Quebec to try to understand the flaw in this system. The problem is that everything is controlled by the medical professional association. The reality is that progressive Quebecers who need cannabis for medical reasons have a hard time getting a prescription from Quebec doctors. Most of the time, the only way they can get one is by travelling to New Brunswick or consulting a doctor in British Columbia over Skype. So I find it hard to understand what a progressive society really means.

There also seems to be a division of powers. That is what we've been hearing in this chamber for months. The jurisdiction of the provinces, the jurisdiction of the federal government in certain areas and the constitutional dispute have all been debated. It's too bad Senator Carignan wasn't here to hear those speeches. In fact, the debate focused solely on the constitutional question.

After that, I adopted a new approach. I asked myself why the federal government, in the context of its jurisdictions, would decide to set a limit of four cannabis plants when it comes to home cultivation. I understand that this aspect is part of the government's goal of taking the organized crime element out of the production and sale of cannabis. However, I also had a closer look at the *Allard* decision handed down by the B.C. Federal Court recently, specifically in February 2016. That case focused on two individuals who did not have reasonable access to medical marijuana. The ruling states, and I quote:

[*English*]

Disposition and Remedy

For these reasons, I find that the MMPR regime —

[*Translation*]

That's the marijuana for medical purposes regulations.

[*English*]

> For these reasons, I find that the MMPR regime infringes the Plaintiffs' section 7 *Charter* rights and such infringement is not justified.

[*Translation*]

It goes on.

[*English*]

> Absent a replacement regulation or exemption, those in need of medical marihuana – and access to a *Charter* compliant medical marihuana regime is legally required – face potential criminal charges.
>
> . . . for those persons holding a medical prescription or medical authorization. However, this is a blunt instrument which may not be necessary if a *Charter* compliant regime were put in place or different legislation were passed.

[*Translation*]

In other words, the Federal Court ruling found that Health Canada, in the context of its health care system, did not reasonably authorize access to marijuana for medical purposes. This was therefore a violation of the Charter of Rights and Freedoms.

In my humble opinion — and I repeat that I am not a lawyer — the constitutional issue that we should be debating with respect to Bill C-45 has nothing to do with Senator Carignan's amendment. Rather, we need to ask ourselves whether Quebec, in its legislation, is violating the Charter of Rights and Freedoms when it comes to Quebecers and their reasonable access to recreational cannabis. That is the constitutional question we need to consider. How will Quebecers living in small communities in Quebec access cannabis for recreational purposes when the government of Quebec will have a monopoly?

Ninety per cent of my trip between Ottawa and New Brunswick takes me through small communities along the St. Lawrence. After 15 years, most residents think I live in the area, since I stop in so often. However, I understand what they are saying.

Regardless of the legislation adopted and the open attitude towards the sale of beer and wine, regardless of the availability of these products in all corner stores and grocery stores, I would not support the Government of Quebec. It has a limited understanding of this situation. Either because of distance or financial reasons, these people will not have fair and equitable access to recreational marijuana, like those who live in large cities like Montreal and Quebec City.

• (1650)

In closing, I want to emphasize that the constitutional division of powers that Bill C-45 raises is not the most important aspect of this bill. The main issue before us is compliance with the Canadian Charter of Rights and Freedoms and fair access to the product.

Thank you.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Senator Saint-Germain, do you wish to ask a question or give a speech?

Hon. Raymonde Saint-Germain: I would like to ask the honourable senator a question, if that is okay with her.

Senator Ringuette: Of course.

Senator Saint-Germain: Senator Ringuette, you spoke at length about Quebec and social programs. Tell me, are you aware of Quebec's social tax programs, which give the elderly, the vulnerable, unemployed youth, and newcomers awaiting status access to things like pharmacare and addiction treatment? Did you take such programs into account in your analysis of the situation in Quebec?

The Hon. the Speaker: Senator Ringuette, your time is up. Do you want five more minutes?

Senator Ringuette: Yes, please.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Ringuette: Thank you for your question, senator. As I said at the beginning of my remarks, I see Quebec as being ahead of the other provinces on social programs.

However, I must say that I was disappointed with the results of my initial research into the ability of Quebecers to acquire medical marijuana with a prescription. Quite honestly, I wondered just how much of a hand pharmaceutical companies had in that.

I read the excellent presentation that former minister Benoit Pelletier made in which he said that this was complementary legislation.

However, we must keep in mind that it is our duty to ensure that bills are consistent with the Constitution and with the Canadian Charter of Rights and Freedoms. We know that the Constitution and the Canadian Charter of Rights and Freedoms apply not only to the Canadian Parliament, but also to every provincial and territorial legislature, as well as all Canadians. I prefer to tone down this situation.

Thank you.

[*English*]

Hon. Frances Lankin: I appreciate the contributions of all the speakers thus far. I know there are strong differences of opinion about the bill, and I respect that there are those differences. I also think it's important that, as Senator Dalphond said, we look at what stage we're at now and what it is we're really talking about.

The question that is in central focus with Senator Carignan's proposed amendment is the question of when we do or when we do not insist on a particular amendment. I'd like to stick to that.

I will briefly comment on the construct of the issue underneath it, because what I've heard strongly from many senators opposite is a description of the dispute between the provinces of Quebec and Manitoba and the federal government around the number of plants in a home-grow situation as being a significant constitutional question.

I reject that; I don't believe that. There are divisions of powers in our country.

I don't want to be insensitive to the unique nature of the province of Quebec within our Confederation — not at all. In fact, for many years, whether it was Meech Lake or Charlottetown and these questions, I've always had a focus of strong federalism and how we keep our country together, but I've always believed in the right of self-determination of the people of Quebec.

Also over the years, for a period of time I worked to promote the possibility of asymmetrical federalism, recognizing the special and unique status of the province of Quebec and the historical contribution and the way in which our country was built. That's been rejected in this country. That's not an approach we want to take.

In fact, when this chamber was even offered the opportunity to organize some of our discussions, such as how we organize our business, on the basis of having representatives from different regions, it was a cry from across the floor that we were going to destroy federalism and that this was just not what the Senate was about. It's quite a different story than what I'm hearing people say today. I think different circumstances do allow an opportunity for people to bring forward different ideas and different thoughts, but to take it so far as to say this is a constitutional crisis, it's not.

I've been at federal-provincial tables, and I had fights with the federal government when I was a cabinet minister in Ontario. Every time you disagree, it is not a constitutional crisis, particularly where the federal government has a clear jurisdiction of powers in this area.

Cooperative federalism, I think, is an important concept and one that every government comes in and speaks to in terms of their intent and, more or less, is able to do that in some situations and not in others.

I agree with Senator Pratte when he said the amendment we sent to the House of Commons was a reasonable one. I don't disagree with engaging provinces in a different way, in a more cooperative federalism, but the federal government has taken a decision to say no to that.

Having sat at a cabinet table, I understand that part of what will be motivating them — there are several motivations — will be to declare where they do have the clear power and primacy and to defend that on the part of the federal government, whether it is this particular Liberal government or a government of any other political stripe in the future.

I respect that they have the right to do that. I respect that they took that recommendation to the Parliament and that the Parliament has passed the message that was sent back to us, and it was passed including votes from a number of Quebec MPs.

I don't want us to blow this out of proportion. That might suit some people's agendas, but I don't think it's helpful in this country, at this time particularly, when we are looking at the issues that we are facing in our own province-to-province relations and with the federal government around pipelines and other issues. There are a lot of things going on here.

I completely agree with Senator Dalphond when he said at this point in time our job is to determine whether or not we are going to insist on an amendment that was in the message that we sent to the house and was not in the message that was returned to us, and that we should approach that as a principle-based question as to when and when not to insist on a Senate amendment.

There is nothing in here that is constitutionally non-compliant, Charter non-compliant. It isn't discrimination amongst regions. There isn't a particular impact when you take it down to all of the regulatory powers that the provinces have been given and the flexibility under this legislation and what it comes down to at the end of the day, which set of principles and how people view federal-provincial relationships, but with respect to the content, one plant.

• (1700)

I truly think that a rational and non-partisan approach to looking at those principles is important for all of us to engage in. I'm not just talking about political party partisanship. I think everyone can become partisan around a set of issues or part of the content of a bill and look to fight to that end with the views that they brought forward. But I think that's outside of the job of the Senate.

I think when it comes down to a policy preference, which is what I hear in this approach as well as the insinuation that it is a constitutional problem — and, as I said, I reject that argument — when it comes down to a policy approach, we in the Senate shouldn't be insisting on a preference that we bring to the table in terms of a policy approach. At this stage of the game, we should respect the elected Parliament that has confirmed the government's recommendation and sent it back to us. Therefore, I will be voting against Senator Carignan's motion, and I will be voting in favour of accepting the message. Thank you very much.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: In amendment, it is moved by Senator Carignan, seconded by Honourable Senator Andreychuk, that the motion not now be adopted but that it be amended — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure honourable senators to adopt the motion?

All those in favour please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on the bell?

Senator Plett: Thirty minutes.

The Hon. the Speaker: Thirty minutes. The vote will take place at 5:32 p.m.

Call in the senators.

• (1730)

Motion in amendment of the Honourable Senator Carignan negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mégie
Batters	Mockler
Beyak	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett

Doyle
Forest
Galvez
Greene
Housakos
MacDonald
Maltais
Marshall
Martin
Massicotte
McInnis
Poirier
Richards
Saint-Germain
Seidman
Smith
Stewart Olsen
Tannas
Tkachuk
Verner
Wells—35

NAYS
THE HONOURABLE SENATORS

Bellemare
Bernard
Black (*Alberta*)
Boniface
Bovey
Boyer
Campbell
Christmas
Cools
Cormier
Coyle
Dalphond
Dasko
Dawson
Day
Deacon (*Nova Scotia*)
Dean
Downe
Duffy
Dyck
Eggleton
Gagné
Gold
Griffin
Harder
Hartling
Jaffer
Lankin
Lovelace Nicholas
Marwah
McCallum
McPhedran
Mercer
Mitchell
Moncion
Munson
Omidvar
Pate
Petitclerc
Pratte
Ravalia
Ringuette
Wallin
Wetston
Woo—45

ABSTENTION
THE HONOURABLE SENATOR

Dupuis—1

The Hon. the Speaker: Resuming debate on the main motion.

Hon. A. Raynell Andreychuk: Honourable senators, as this will probably be the final moment to discuss this bill, I wanted to put on record again that the discouraging part of this is that the homework was not done by the government. One can disagree with a policy initiative of the government, but it becomes very serious when the government does not consult in a meaningful way and the preparation on something as significant as Bill C-45 is done, but most of it will have to be done after the bill passes.

One of the interesting points that were brought forward was the Report of the Senate Special Committee on Illegal Drugs, which was filed in the Senate in September 2002. There were 11 recommendations. There was questioning about whether our laws, as they presently stood in 2002, were in fact helpful to Canadian society. But what the 11 recommendations did was put out a road map, a place to go if you wanted significant change in the society.

• (1740)

I want to read out one of the recommendations — recommendation 11:

> The Committee recommends that the Government of Canada instruct the Minister of Foreign Affairs and International Trade to inform the appropriate United Nations authorities that Canada is requesting an amendment to the conventions and treaties governing illegal drugs; and that the development of a Drugs and Dependency Monitoring Agency for the Americas be supported by the Government of Canada.

Nothing was done to indicate to the UN sources or other international bodies that, in fact, we would be violating three of the major international conventions, not to mention some others. Had we done so, I think we would be in a better place to maintain our foreign policy stature when we question violations of the conventions by others in the national interest. I want to underscore that again, as I believe that to be extremely significant.

While the Foreign Affairs and International Trade Committee indicated that all would not be lost if the government put in a concerted plan to address these issues, including the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Convention on the Rights of the Child and, more particularly, the drug conventions, the government must act if Canada's reputation on the world stage is to be maintained.

We often speak about Canada's unique and important position, but I believe we have to do more than talk about it; we have to do something about it. It would have been preferable two years ago to make the indication. We would then not be in violation of the conventions; we could have adhered to the conventions, according to the processes within the conventions. I wanted to underscore that.

I also wanted to pay tribute to those who sat on the committee that Senator Nolin chaired because they actually did put out a road map. They understood how complex this issue is. I urge the Government of Canada, senators, the House of Commons and others to read those 11 recommendations. While you might say some of them are outdated, they are only outdated by new scientific information and by the change in our societies. But the fundamental recommendations are still good: Do not move until you have researched, and do not move until you educate. The report is riddled with appeals for education and to put in people who will monitor and assess before you start changing the laws.

One other message in the report was that you don't do it in the context of a full menu of drug changes. Undertake changes incrementally so that society can adjust to it. I'm afraid we're not doing that with Bill C-45.

The other comment I want to make is that the most significant impact is not going to be on people my age or adults. The most significant impact is going to be what our Standing Senate Committee on Human Rights called "the silent citizens," those who do not have a vote, the children of Canada. It will be they and their children who will be impacted by this law.

We have not put in place the kind of education we need to. We do not have the pieces in place. Perhaps *MacLean's* was right — if we're going to use newspapers. The federal government announced that it wants to legalize marijuana but turned over the hard part to the provinces and the municipalities. They also turned it over to the children to have to cope. They are not getting the resources and the information. For that matter, I do believe neither is the public — they are going to awake to what the impact is going to be on society as they live through it.

Surely in this day and age, a transparent and accountable government would have put the pieces in place. The legislation should have had the supporting material for implementation. We are struggling, as we noticed in the committees. We are suggesting and appealing regarding what needs to be done, but what we're saying is what should be done.

We will not suffer the disabilities. It will be the next generations. I think we are doing a disservice to the young people by not having put the pieces in place before we put Bill C-45 in place.

I still believe we should not move in this direction. I will oppose Bill C-45, because I do not believe it is a good piece of legislation. I will continue to draw to attention that this bill has its defects simply because we have not thought ahead. Therefore, I cannot accept the message from the House.

I believe we still have time, if the government properly sits down and consults with the provinces and municipalities and all the caregivers who are going to have to look after the children — the teachers, social workers, judges, neighbours — to understand the significance of this bill and the significance to the next generations. We should not have silenced the young people. We should have consulted in a more meaningful way.

If the government will not delay to allow proper implementation, I fear what the negative consequences will be. I appeal to the government to stop and think carefully before we visit difficulties on the next generations. In any piece of law, there are unintended consequences. We should not start out with not understanding the real consequences today, because society will change and needs will change. That in itself is more than a society can handle, but to start out and say that we'll legalize marijuana and everything will fall into place — it does not work that way, if you have worked with children.

I trust that we will continue to monitor this situation, to do what we need to do, and to appeal to this government to delay those parts that are not properly in place — and that the education has not been put in place.

[Senator Andreychuk]

Go back to Senator Nolin's report. They put in five-year time limits for education. They put in research, and it had time limits. In 2002, we knew less about cannabis. We know so much more, which gives me even more pause to worry about the young people. So my emphasis is there.

I trust the government will seriously look at it and not celebrate the day the bill is in place but rather take its responsibility seriously. Thank you.

Hon. Art Eggleton: The fact is, colleagues, that the present system does a disservice to young Canadians. The present system is broken. It needs fixing. The fact is, there are extensive numbers of users of cannabis in this country, particularly between the ages of 18 and 25. It is one of the biggest usage levels anywhere in the world. It spawns a $7 billion illicit industry in this country.

The government has shown courage in bringing forth a transformational piece of legislation that changes this from one where we criminalize a lot of our young people; we give them criminal records that ruin their lives in many respects and that don't give them the opportunity for the kinds of jobs and advancements they need in our society. The government has brought forward legislation that shifts this all toward health, safety and regulation of the industry to make sure of what the product is that our people are going to be consuming.

• (1750)

At the same time, it does provide education. They are well on their way in terms of providing the education now. We may not recognize a lot of it because it is geared towards younger people who have different kinds of access to information than perhaps some of us older folks do.

And yes, they do need to do an awful lot more. That must go hand in hand, right down the line with the implementation of this legislation. There is no doubt about that. The government has said it, but I think we have said it even louder, through all of the studies that we've done, the five committees including the one I have the opportunity to chair, Social Affairs, which has brought together some 200 witnesses in the course of our two months of dealing with the study and the other studies that went before. That's a lot of information.

Yes, we came up with some ideas that we felt would make this legislation better. Now, the government did accept some of them, but some of the major pieces they did not. I must say that the part of their answer that disappointed me was, "Well, we respectfully disagree," that common phrase, the reason being they felt they had a better answer. That's in effect what they were saying.

I believe it would have been better for them to have delved into what gave rise to those amendments because the arguments we heard at committee were compelling and deserved attention; not just the wording of the amendment itself but what gave rise to it. They followed every detail that we were going through in the course of our studies, so I felt that was one thing that could have been done a little better.

When it comes down to the basics of moving to a health and safety perspective, one of the arguments that impressed me came from Dr. Bernard Le Foll, who is the medical head at the Centre for Addiction and Mental Health, known as CAMH. It is one of the pre-eminent institutions of this country. We've all quoted people from both sides of the argument. There is no shortage of people contradicting each other or coming up with different facts, different statistics or different analytics of the statistics. There was no shortage of that. One could create a lot of confusion over it.

I think it's quite impressive when a pre-eminent organization head such as Dr. Le Foll says we should take an overall public health approach, not a criminal law approach. He said that we can greatly reduce the harms of illicit drugs, including cannabis, by focusing on the underlying public health issues. He added that most of the harms are caused by the laws we have put into place rather than by the drugs themselves.

This point was reiterated by the Criminal Lawyers' Association, who told us:

> In simple terms, it's the criminalization of marijuana that creates harm, not marijuana itself.

So I think the basis of this bill is a good one for Canadians.

We didn't get all of our amendments, but we did get a couple of things I want to note because they haven't been mentioned yet today. One was the issues that were raised at the Aboriginal Committee. I think we got a pretty firm commitment from the government. That's a major move. They needed to make that move and they knew where we stood on the matter in this chamber, and I'm glad they made the move that they did.

It's a process at this point. It still requires a lot of good faith in how it proceeds, but at least we have that process in place, and the people in this chamber, many of whom were behind all of that happening, are involved in that continuing process.

There is another possible one that comes out of some of the arguments we made about double jeopardy or the double penalty that could result from somebody who is a permanent resident versus a Canadian citizen, which could lead to their not only getting the penalty under this cannabis law, but they could also find themselves being disqualified for citizenship or in fact deported.

Here the concern was over people with simple possession or simple kind of sentencing that might be provided or even a fine provided in those cases. The big drug dealer is a whole different sphere and those are not the people we are talking about here. We said for more minor offences, double jeopardy shouldn't exist.

The minister said in a letter to a few of us who had a conference call with him last Saturday morning, "I would like to assure that I'm committed to carefully considering and addressing the immigration consequences of Bill C-45 and C-46. My department is examining the tools within my authority to mitigate immigration consequences, including discretionary tools." And a group of us are going to follow up.

So I think there still is opportunity, through those two provisions that have come in the course of the back-and-forth discussions with the federal ministers, to bring about some improvements.

But now we're at the stage where it's time to address the message before us, and I simply say it's time to accept the message.

Hon. Dennis Glen Patterson: Honourable senators, I rise to today to speak to the message from the other place regarding Bill C-45.

As I thought about whether or not I would vote to accept the message or advocate this chamber holding our ground, I not only reflected on everything I've heard through Nunavut and throughout our fulsome study and debate of the bill, but I also reviewed Senator Harder's paper from this past April entitled "Complementarity: the Senate's Constitutional Role."

The first point that struck me was Senator Harder's belief that the Senate should:

> . . . adopt a stance of democratic deference to the Government's electoral platform when passed into law by the House of Commons, in accordance with the principles underlying the Salisbury Convention (which does not preclude amendments that would improve the legislation);

So I reviewed the Liberal platform, and I saw their promise that the Liberal government:

> . . . with input from experts in public health, substance abuse, and law enforcement, will design a new system of strict marijuana sales and distribution, with appropriate federal and provincial excise taxes applied.

To my mind, this means that the Senate, through debate and proposed amendments, has been attempting to improve the legislation by ensuring that the government not break its campaign promises with this bill. Several amendments passed by this chamber and ultimately rejected by the other place were based exactly on the expert advice received during committee study.

The bill also contradicts, as Senator Christmas stated during debate, another campaign promise made by the Trudeau Liberals to "do more to make sure that the voices of Indigenous Peoples are heard in Ottawa," by cutting them out of the excise tax regime and manifestly not properly consulting with them.

Senator Harder went on to say that we must:

> . . . strike a balanced approach to amending government legislation with an outlook emphasizing — but not strictly limited to — the areas that are at the heart of the Senate's institutional mission . . . .

Colleagues, I do believe that through the study of this bill, we have done just that. Several areas that Senator Harder identified include:

> . . . the interplay of legislation with:

the Constitution of Canada, including the *Canadian Charter of Rights and Freedoms* and the division of legislative powers between Parliament and the provincial and territorial legislators; and

Treaties and international agreements that Canada has ratified;

- the detrimental impact of legislation on minorities and economically disadvantaged groups;

- the impact of legislation on regions, provinces and territories, but with a view to the national interest of the federation as a whole;

- consultations conducted with stakeholder groups, if at all required by law; and

- the text of the legislation for drafting errors, serious unintended consequences or other potential oversights;

Well, colleagues, I do believe that the Senate's amendments were crafted to address concerns surrounding each of those areas.

• (1800)

We can all agree that Senator Dean's amendments, such as the addition of forgotten commas and corrections to the French version, addressed the drafting errors in this bill. Senator Seidman's proposal to prohibit brand stretching was clearly aimed at addressing what the majority of this chamber believed was a potential oversight in an effort to protect our youth. Senator Petitclerc's amendment sought to clarify the division of federal and provincial or territorial powers.

Honourable senators, laws that are local in nature generally fall into the exclusive jurisdiction of the provinces, and the provinces are granted jurisdiction over property and civil rights. Why can't —

The Hon. the Speaker: I'm sorry for interrupting you. It being six o'clock, honourable senators, is it agreed that we not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Patterson.

Senator Patterson: Why can't provinces then decide that the damage of allowing plants to be grown in the home is too detrimental to allow, and why can't they decide that growing marijuana in a dwelling house would impede the civil liberties of those in multiplexes who choose not to subject themselves to cannabis?

By the way, it's not only Quebec and Manitoba that are concerned about this issue but also the Government of Nunavut.

And the list goes on. Senator Omidvar pushed to protect immigrants who may face disproportionate repercussions for sentences handed down that are less than six months. Senator White pushed for an amendment that addressed the concerns of expert witnesses that represent the chiefs of police of this country. Senator Carignan's amendment was aimed at improving the legislation to make sure that we did not unintentionally provide the black market with a back door to the new licit trade by requiring that the names of shareholders and licensed facilities be made public.

Honourable senators, we have done our duty. We have a constitutional mandate, as Senator Harder outlined, to work to protect the regional interests, the minority interests. We have a constitutional duty to give voice to those who are under-represented: youth and immigrants. We have a constitutional duty to ensure that the laws that pass our chamber are free of error and prejudice and are in accordance with the Charter, the Constitution and international treaties. We have listened to expert witnesses and thoroughly, thoughtfully and passionately debated this bill for months. The amendments rejected are based on extensive study and were passed by a majority of this chamber. Every legislative change rejected fits into the areas outlined in Senator Harder's paper.

We "ping," but we generally ought not to "pong," says Senator Harder. But I ask you, colleagues, if we do not stand our ground now, then when is it appropriate? If we do not push hard on a bill that the government itself has termed a piece of transformative public policy, then when should we exercise our constitutional mandate to improve legislation based on the areas that are at the heart of the Senate's institutional mission?

Colleagues, I cannot accept this message.

Hon. Ratna Omidvar: Honourable senators, I rise to speak to the message from the other place in front of us today. Senator Harder elaborated in great detail about the content of the message, and I want to refer, in particular, to the consequences for permanent residents who are convicted of summary offences under Bill C-45.

Of course, I'm disappointed that the government saw fit to reject this amendment, and this in spite of the reasoned approach that we put forward. We pointed out the distorted, disproportionate, unintended outcome of certain sections of Bill C-45 on permanent residents. Not to repeat myself, but, in essence, a double penalty is imposed on permanent residents who are found to be in contravention of Bill C-45. This double penalty is imposed even when there is a conditional discharge or someone serves no time at all.

We argued in committee and in the chamber, I believe, that it was not simply unfair but also against the principle of the bill, which is decriminalization. Instead, as a knock-on effect, there is an over-the-top impact on just one class of residents, and that is permanent residents, while others follow a different path to rehabilitation. So different strokes for different folks, in other words.

We did not ask for special treatment but for equal treatment for those who are convicted. By focusing the amendment on those whose penalty is less than six months, we would not be covering or dealing with those individuals who have caused bodily harm and who, therefore, would be serious criminals.

Our amendment was reasonable. It was constructive, and it was incremental. However, as we all know, the government has rejected this amendment.

What senators may not know is that, in the last few weeks, I and a few other senators, as we have crafted different versions of this amendment, have also had a number of conversations and exchanges with the minister and his office. During these conversations, we have been able to convince the minister that action is required — in fact, it is required now — and are exploring different options for going forward. I will, therefore, not be insisting on this amendment because I, for one, am willing to take the government at their word, and the minister at his word, that they are, in fact, seized with this issue and the urgency to resolve it. We have been assured and reassured that they're actively looking at solutions in the short and long term.

I will not repeat what Senator Eggleton cited in the letter from Minister Hussen, only to say that a commitment has been made to work with us, and the letter says, for instance, the minister says to us:

> . . . I am committed to carefully considering and addressing the immigration consequences of Bills C-45 and C-46. My department is examining the tools within my authority to mitigate immigration consequences . . . .

And so on and so forth. So, while I am going to take the minister and the government at their word, I parse the sentences, and I am cautious about the qualifying nature of the verbs that are involved. The minister uses words like "explore," "consider" and "examine." Those are not exactly action words.

So here's what I'm going to do. I intend to hold the minister to account for his promises in this letter and for his actions. We will be meeting with the minister in September to discuss how far his proposals, his solutions, have come, and these will range from directives in the short term to proposed legislation in the long term.

I also take comfort from a sentence in the letter that says that the department will be proactively informing the public, including permanent residents, to make them aware of the possible immigration consequences of engaging in prohibited cannabis-related criminal activities, as well as impaired driving, which takes us into Bill C-46.

I believe that this chamber and the Social Affairs Committee did an excellent job in identifying an issue that the government had clearly overlooked and now is seized with. We have fulfilled our role of careful scrutiny of the bill and identified a major issue and a path forward. We have found, I believe, an appropriate and mutually respectful way of working with the other place, and, in doing so, we have demonstrated our value to the people of Canada and that we are indeed the house of sober second thought. To that end, I say: Good work, honourable colleagues, and a job well done.

The Hon. the Speaker: Senator Omidvar, would you take a question?

Senator Omidvar: Absolutely.

Hon. A. Raynell Andreychuk: Senator Omidvar, I understand that you're doing your best efforts to put something into an amendment. The minister's letter does not bind future administrations, so it's really at the goodwill of your relationship with the minister. Is that really the way we want to go on amendments? We've been through this before, and the best route would have been a change. I don't know who is going to meet with the minister, but I would hope you would let us know. Would you consider, in another session, to put in another amendment to the bill?

• (1810)

Senator Omidvar: I will absolutely inform the chamber on the progress of these commitments. Legislation has been promised. It is within the context of IRPA, so there will be legislation coming. I don't know whether it will originate here or in the other place. That is part of the agreement and the discussions that we will have.

[*Translation*]

Hon. Éric Forest: Honourable senators, I will be brief. In all honesty, esteemed colleagues, I did not intend to speak to the message received from the other place regarding Bill C-45. I really hoped that the government would see the merit in the amendments that we drafted with due diligence and thoughtful consideration throughout the process. We have been examining Bill C-45 since last November, and I would like to acknowledge the excellent work of our colleague, Senator Dean, on this very complex file.

I can't tell you how disappointed I am with the motion that is before us today. I want to reiterate that I support the legalization of cannabis in the best legislative environment possible. The passage of this bill means that people will have a choice. They will be able to choose between using black market cannabis, the content of which is unknown, and controlled cannabis, where they know the content and the THC levels. I am fully aware that this was an election promise. We need to respect the will of the elected government, but I cannot stand idly by in the face of this message from the House of Commons.

[*English*]

I want to acknowledge the work that our colleagues here did in good faith to improve this bill, in light of the exhaustive study we undertook and the relevant testimony we heard. I feel uneasy, however, that this work seems completely undervalued by the government.

[*Translation*]

My speech today will not present constitutional or legislative arguments because there are senators here who have a lot more experience than I do in those areas. Instead, I will defend two principles that are particularly dear to me and that are based on respect and partnership.

The first is the principle of respecting jurisdictions. I am a firm believer in the principle of subsidiarity at all levels. The Governments of Quebec, Manitoba and Nunavut have the right to prohibit the home cultivation of cannabis. Jean-Marc Fournier, the Quebec Minister for Intergovernmental Affairs, was very clear about that when he appeared before the Standing Senate Committee on Legal and Constitutional Affairs. The House's rejection of the third amendment is difficult to understand. It would have confirmed Quebec's jurisdiction in that area.

Right now, the courts are as congested as the Turcot interchange in Montreal during rush hour. The government knows very well that there will be court challenges as soon as the bill comes into force. The Liberals' lack of openness will only make an already very problematic situation worse.

I think it is unacceptable that the federal government is failing to respect the provincial legislatures, which are just as legitimate, and the level of governance with which it should be building a partnership if it wants to meet the very complex objectives associated with the legalization of cannabis, given all the risks that come with that legislation. What is more, the provinces and territories should also create an environment that is conducive to a solid and effective partnership with the municipalities, which will have to deal with the realities of this new law on a daily basis.

Yet, the study Quebec conducted for Bill 157 was not without value. Canada is still a federation, not a unitary state unilaterally dictating to its provincial partners with no possibility of compromise. Politics is all about the art of compromise. I don't sense any willingness on the part of the government today to compromise on this issue. For example, I have a hard time understanding why owners of apartment buildings in Quebec will have the right to ban certain activities related to cannabis consumption, but the Quebec government itself does not have the same right. There is an inconsistency here. I see that this problem is causing some real unease.

Lastly, I can't understand the public policy goals behind creating a legal commercial market to sell cannabis if home growing is allowed. Does the government think it can make a profit selling cannabis commercially if cannabis trading between individuals becomes more and more popular? The question bears asking, in my humble opinion. Are we crippling a potential market before it's even been created?

Secondly, I have doubts about the government's commitment to regulating the promotion of this product. The amendment proposed by the Senate to further restrict marketing activities was prudent and made perfect sense. We all know the dangers of using cannabis. One of the crucial objectives of this bill, in my view, should be to avoid normalizing the consumption of this product, because we must be careful not to promote the use of cannabis, especially to our youth. Bill C-45 needs to have more teeth in that respect. I don't think it is as strong as it should be. Let's not be overly timid. What is happening with the aggressive marketing of alcohol in Quebec should serve as a warning. It's inconceivable that cannabis consumption should be promoted the way drinking is now.

[*English*]

Honourable senators, we are witnessing a clear lack of openness on the part of the government. I can't hide my disappointment.

[*Translation*]

We collectively have a constitutional responsibility to review bills by giving them sober second thought, free of partisanship. In my view, I also have the responsibility to protect and uphold the interests of Quebec and its regions, and that is what I'm trying to do today. If we agree to amend a bill, it's not just because we like doing it or to keep people busy in the other place and in the Prime Minister Office. The amendments proposed by the Senate consolidate in a coherent and legitimate manner the complementarity between the provincial laws, Bill 157 in the case of Quebec, and the federal laws. The government unfortunately seems to see things differently.

Esteemed colleagues, I will oppose the message from the House of Commons on Bill C-45. I firmly believe that those amendments are essential. Thank you.

Hon. Raymonde Saint-Germain: Honourable Senators, I first want to recognize the commitments made to the First Nations by the government through a letter of agreement in order to promote the passage of Bill C-45. I agree with those commitments because they allow for their context to be taken into account in an informed way. I would have hoped that the government would give the same consideration to the serious work and arguments of the provinces and the territory that chose a prudent approach in prohibiting home cultivation, so as to ensure a smooth transition from prohibition to legalization. This prudent approach is justifiable. Canada is the first OECD country to legalize that substance.

However, the arguments used by the government to substantiate its refusal of the amendment that would have allowed provinces to prohibit home cultivation were not documented carefully or thoroughly in regard to public health issues. The cabinet just referred to expert reports that have not been made public to this date.

As far as I am concerned, I believe it is not enough to list measures that provinces and municipalities will be able to take to regulate home cultivation or to conclude, without any supporting evidence, that growing a few plants will effectively combat large grow operations managed by organized crime.

In contrast, the Quebec government did rigorous work based on serious public health considerations. Several strong arguments support the prohibition of the home cultivation of cannabis, and I recognize that opposing arguments were also raised by the federal government.

I would like to focus on three of the arguments that came out of the work done by public health specialists from Quebec. The first has to do with preventing the distribution of home-grown cannabis outside the legal system, particularly distribution to young people. That has not often been said here, but it's important. The second has to do with adopting a careful, progressive approach, given that the Quebec law provides for a

report on its implementation three years from the date it comes into force and every five years after that. The third argument is about not clogging up the justice system with multiple legal battles going all the way to the Supreme Court, when people decide to challenge the Government of Quebec's ban on home cultivation, at great expense, on the grounds that it may fly in the face of the objectives of Bill C-45. This would also force the Government of Quebec and the federal government to use public money to defend themselves in court.

• (1820)

That said, I would like to remind you that the bill's sponsor, Senator Tony Dean, did a tremendous job of carefully documenting all the issues at the centre of this legislation and answering all of our questions. Many senators who originally opposed this bill — a number of senators from the Independent Senators Group come to mind, along with some other senators who preferred decriminalization to legalization — changed their minds based on the edifying answers they received from Senator Dean and his team.

Although I am convinced that legalizing cannabis is the right thing to do, I had hoped that it would be done in a way that respects the opinion of all the parties involved. It seems to me that the federal government is showing a lack of openness and flexibility. However, I believe that the Senate has a duty not to go against the will of a democratically elected government, or to do so only under extraordinarily rare circumstances. In this case, I don't believe that the circumstances warrant an exceptional insistence from the Senate. The government is ultimately responsible for its choices, and it will be up to Canadians to pass judgement when the time comes. That is the prerogative of every democracy based on the rule of law.

I nevertheless believe that preventing disputes and recognizing the provinces' constitutional jurisdictions should be a standard practice. Earlier, I supported Senator Carignan's amendment in a last attempt to prevent the implementation of Bill C-45 from being caught up in legal proceedings.

I am faced with a dilemma: I agree with the principle of legalization, and I don't want to unduly block the legitimate will of the government — and, let us not forget, the will of the House of Commons as expressed in the message sent yesterday — but I am convinced of the merits of the provinces' position. So I will continue to hope that the situation evolves, but I will vote in favour of the House of Commons' message. I will do so as I think of all the people in the provinces and territories who have worked very hard, especially public safety agencies, police services, health services, social services and all public services. I am also including all the companies that henceforth will be legally licensed to ensure that anyone who wants to purchase cannabis legally can do so under optimal conditions for quality. I am also doing this to support these companies. In the event that this issue does end up in court, I believe that it is still more important to strike a balance between controlled legalization and its benefits in terms of fighting organized crime and protecting children.

The fact remains that once the Senate defers to the government, the duly elected government officials will be accountable to electors. Thank you.

Hon. Senators: Hear, hear!

Hon. Renée Dupuis: Honourable senators, I want to talk about the message we sent to the House of Commons, because I believe that the present situation — which I persist in describing as marked by normalizing, indifference and complacency — encourages the cultivation and the illegal sale of products which are a health hazard.

Honourable colleagues, we worked very hard and I'm convinced that we're now fully aware of the complexity of the issue of cannabis. We have also helped publicize our work among the people who followed our committee proceedings and who were able to hear the answers to the questions we asked to the numerous witnesses we heard.

I will vote for the legalization of cannabis so that we can at least help clean up the mess on the market by controlling the quality of legal products which will be sold in a legal market. On the other hand, I will not pretend that adopting this bill will solve all the problems we have now.

Even if the House of Commons rejected our proposed amendment to acknowledge provincial and territorial jurisdiction to legislate on home cultivation, as the governments of Quebec, Manitoba and Nunavut have already announced, I believe that rejecting that clarification does not affect that provincial jurisdiction and that it will be up to the courts to clarify the legal situation on those matters.

I think that the Senate will have to seize the opportunity, when the law comes up for review, to hold the federal government to account on specific issues regarding the implementation of its law.

In conclusion, I urge all senators to carefully consider a little-known aspect of Canadian parliamentary procedure in the event of a deadlock between the Senate and House of Commons on a bill. There are two procedures if the House of Commons and Senate disagree. The first is to exchange messages, like the one we are debating today, a process that can go on forever, as we've seen. The second is to hold a conference between the houses, as set out in Senate rule 16 and in chapter 16 of the *House of Commons Procedure and Practice*.

The appointment of independent senators profoundly changed the dynamic of the debates in the Senate, and we no longer have the traditional dynamic based on a relationship between just two political parties. The government must take note of this change and should seriously consider the Senate's work on Bill C-45. The government should also consider the consequences of this new dynamic for the passage of its bills. Thank you.

Some Hon. senators: Hear, hear!

[*English*]

Hon. Leo Housakos: Honourable colleagues, I had not planned to rise today to speak on debate, but I was compelled to do so given the importance of this debate. I want to share my thoughts, and I intend to be very brief.

I listened earlier to my good friend and colleague Senator Eggleton talk about the facts in this debate. The facts, as I see them, seem to be a bit different than the facts that he sees.

Clearly, the government has made it their overarching goal to try to reduce the amount of cannabis use amongst young people. They constantly, throughout this whole debate and as a catalyst for what they're doing, use the argument that marijuana use by young Canadians is amongst the highest in the world. The facts are, colleagues, that over the last three years, ever since they won an election — and no one takes away the fact that they had a clear mandate in their platform to put forward cannabis legislation — this government made no attempts whatsoever to get solid baseline data research information. There wasn't a single government agency that commissioned a single poll, a single study, a single analysis in order to back up a number of their arguments.

One would think that a government on a piece of legislation as important as this would not rely on tertiary information coming from other agencies around the world but would have focused on gathering their own information.

To this day, the only commissioned study they are doing is by Health Canada, which is only under way to analyze the waste water treatment facilities in this country in order to see the flow of marijuana.

They say their overarching goal is to reduce cannabis use amongst young people.

• (1830)

I don't see the evidence in the various works that the Senate has done. What I have seen is an attempt on the part of the government, legitimately, to transform an illegal activity into a legal activity. I have seen the government taking steps in order to get a piece of the action.

I have seen, colleagues, a situation very similar to the era going back to prohibition. What ended up happening is very simple. Back then, the government decided they wanted a piece of the action, so they went from alcohol being illegal to alcohol being legal, and governments cashed in big time.

The argument at the time was, of course, to take the illegal entities out of the game. We all know what ended up happening. What ended up happening was that bootleggers became legal multinational corporations and made a lot of money, and we spent decades dealing with the problems of alcoholism. We have spent billions, as a society, in order to educate people and try to reel back what inevitably was catastrophic as a social policy.

That is essentially what is going to happen here. We are going to have the illegal entities, who are currently selling marijuana illegally, becoming large corporations and making a lot of money. We will have a lot of young people who will be using it because we're now normalizing it by this piece of legislation.

A small percentage of those — I grant it's a small percentage; it could be 8, 10, 15, 16 per cent depending on the study you look at — will use marijuana as a gateway drug and then will spend many years of their lives in rehabilitation. Then government will spend tonnes of money, of course, on health care and other social programs to rehabilitate these people, and all the other impacts that come with it.

Again, why I look at the facts from a different perspective: I'm not convinced that this government is preoccupied with education, because at the end of the day they have been in power now for close to three years, and we have seen three successive budgets, and limited to no resources have been put into education. It has nothing to do with platforms, because I have children on various platforms. I can assure you that, as we speak, there hasn't been a major concerted effort on the part of this government or previous governments to educate people the way we have done with smoking and alcohol. Unfortunately, governments wait for a problem to become a crisis before they act, but the consequences of acting too late with this one are just too high a price.

Again I question the government's intention from not being what their overarching goal is: to take marijuana use out of the hands of young people. Look at the very intelligent amendment this chamber put forward on brand stretching — which was refused by the other side — which is a small step in limiting and reducing the promotion of cannabis use amongst young people.

An amendment that was refused in this place to raise the age limit from 18 to 19 or 21 was refused by this institution. It's a shame, because we're throwing down the tube reports from the Canadian Medical Association, the Canadian Nurses Association, the Canadian Psychological Association, secondary school and post-secondary school education, and people who are dealing with young people on a daily basis. I didn't hear one who came before our committee and said this was going to be anything less than catastrophic. I heard testimony after testimony.

Senator Dean made his point that, of course, I'm exaggerating when I'm saying doctors are claiming that marijuana use amongst young people from zero to 24 has a negative effect on their brain development. Actually, he claims that as they get older, the level of damage to their cerebral mind becomes less and less.

I don't care if it's 2 per cent or 3 per cent for a 23-year-old who uses marijuana. At the end of the day, there is an impact that it will have on those misguided individuals who use it that we, as a society, will pay for down the line. That's something that I cannot just neglect and toss aside.

As my colleague Senator Andreychuk pointed out, our government is a signatory to three major international conventions. The Minister of Foreign Affairs herself came before the committee and said we are in breach. What have you done in order to mitigate those breaches? Absolutely nothing. "We are talking with our friends and allies."

But that's the least of it all. The greatest impact of all will be our largest trading partner. We have heard time and again that their federal laws are clear when it comes to marijuana use. What kind of an impact will it have on the border exchange, on our trade exchange, on our people crossing at various checkpoints between the United States and Canada?

Colleagues, when it's all said and done, the Senate has a fundamental responsibility, and the argument I have also been hearing today is that it's not our role to stand in the way of the elected legitimate house. No, it's not, except for very particular moments and times in history. This chamber has, at certain times, stood against and defeated government legislation. Granted, it has been a handful of times, but when this chamber finds certain pieces of legislation egregious and dangerous for the future of this country, we have an obligation to be heard.

Colleagues, at the end of the day, the other place is the place of politics and public mandates, but this is the place where it's not about only popularity, it's about doing the right thing. If we as an institution, and to quote Senator Joyal, who has spoken many times, have the right as a chamber to vote for pieces of legislation, we also have the right as a chamber to vote against pieces of legislation when we think it's in the best interest of the regions and the people we represent.

This is one of those times when we need to stand up and speak on behalf of our conscience and the people we represent. It doesn't matter if it's the Native leaders in this group. There are senators in this place that are strong voices for the Aboriginal communities. Now is the time to be counted.

Again, the fact is, Senator Eggleton, I don't have faith in a government that comes here with a letter five minutes before midnight before a vote and says, "Don't worry. There are concerns you have; we will address them."

I think Aboriginal groups have sometimes seen what veiled promises are from governments. Now is their opportunity to stand up and send a message.

Now is our opportunity not only to vote on this bill as legislators but to vote on this bill as parents and as grandparents. At the end of the day, I do not believe there is a single person in this place that would reach out to their child or grandchild and normalize the use of marijuana and say it's a good thing. I think we all recognize the social and economic impact this is going to have.

I hope that at the end of the day, we will go with our conscience and not with political expediency. That's why I cannot support this.

Hon. Jim Munson: Honourable senators, I thought I would add a little lighthearted levity to the end of our debate with a message that I wrote.

The senators came to debate,
and debate they did.
What captured their curiosity was cannabis
and should it be legalized
instead of decriminalized.
But what they realized
is that this was no ordinary issue,
and sides were drawn.
Every day brought a new dawn of ideas.
Some were for and some were against,
and every senator put up a great defence.
Dealing with the black market
as opposed to an open market;
dealing with public health and education,
taking a look at the habits of a new generation.
Questions were asked,
statements were made,
but in the Senate of Canada,
no one was afraid,
afraid to take a stand
because each senator knew they had a hand
in dealing with a bill
which would change the landscape of the land.
At the end of the day,
they amended the bill.
Some were accepted;
some were rejected.
But in the words of a song that some may understand,
it is time to pass the bill,
pass the dutchie to the left-hand side.
Senators, if you don't understand the last line,
I will explain outside.
Thank you very much.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise to add a few more comments to this very important debate before our vote on the message from the house.

I was very disappointed at the message regarding the number of amendments that were rejected. I know the talking points say of 45 amendments, this many were accepted, but really, the vast majority of the amendments that the government accepted were their own technical amendments that were introduced by Senator Dean at committee.

If the third reading debate is any indication of the kind of sloppiness that we will continue to see, the final technical amendment that Senator Mitchell moved in the chamber had an error. Had Senator Seidman not pointed out this error, a missing "s" in a word — because it is all about the exactness of our language — and the punctuation mark, had we not included and corrected them, would have potentially excluded our chamber from being part of the review and reporting process.

• (1840)

This is what happened at third reading. We now see that all this work that our chamber has done, all the incredible work that the sponsor, the critics, the committee chairs, deputy chairs and every single one of us that participated in the seven-month-long process, was almost entirely rejected by the government.

It's deeply disappointing to me to rise today to share my frustration at this point, wondering whether or not any of that will make a difference.

But as the vote looms before us, I thought of one missing voice, a smaller voice, from this debate. On behalf of the municipalities and the concerns that were raised by them, just as Senator Carignan spoke about the importance of the provincial jurisdiction and why we supported the amendment — and why I supported that amendment — I want to remind senators of the voices around the table. There were not as many as we had hoped, but for municipalities and one jurisdiction in my province, and a councillor who continues to message me asking if there is

anything else we can do, today, I need to say these words to remind senators of the concerns raised by our municipal councillors and mayors.

In the City of Richmond, B.C., Councillor Au was one of the witnesses called by the Social Affairs Committee. These are his words. He broke down the municipalities' concerns into five major issues, and the first one is home cultivation:

> We are concerned that the bill as is will allow people to grow marijuana at home. In our assessment of the situation, we think this is not enforceable and will defeat the original stated purpose of Bill C-45, which is to protect young people from having access to marijuana.

The second concern is about the age of possession:

> We noticed in all provinces not one of them would suggest that we should allow minors under the age of 18 to have possession.

I realize that has been addressed in the rejection of one of the amendments.

He continued:

> The third concern we have is the readiness of law enforcement institutions to implement the law or the regulations. We have heard a lot from other cities and across the country that we are not ready. We don't have the resources, the training, the tools or the manpower to carry out enforcement once this legislation is passed and enforce it [in the] fall or this summer. . . .
>
> The two other comments I would like to make is that we are opposed to using farmland for the production of marijuana. . . .
>
> Finally, regarding costs, we have heard from different sources that it will be a huge cost for municipal governments to implement or regulate the legislation.

The concerns raised by Councillor Au are similar to concerns raised by municipalities across the country. During the study, Matt Zabloski from the City of Calgary said:

> As the realm of personal production expands and individuals are able to grow their own cannabis, city staff have serious concerns over potential health implications and resources required to regulate non-commercial growing.

Bill Karsten, a councillor from Halifax, had this to say:

> Senators, we need new financial tools to get this done. We appreciate — very much, in fact — that the federal government has committed $81 million to support municipalities in training police for the new regime. That $81 million, however, from our vantage point, is only a drop in the bucket.

Colleagues, the legislation we are discussing will off-load the responsibility of federal legislation to the provinces, and then to the municipalities, but has neglected to listen to the advice of the same people who will be responsible for enforcing the bill. Municipalities are concerned. We know provinces are concerned. And we should all be concerned.

The government claims this bill will protect our youth from having greater access to cannabis, but we know it will not protect youth. With the legal age being set in certain provinces at 18, high school students will especially be at risk for greater access.

Senator Seidman's amendment prohibiting brand stretching, had it been accepted, would have provided some protection to minors from unnecessarily being exposed to marketing by marijuana companies.

I saw one such example even before legalization, and the logo was very attractive. The bags were multipurpose, so we can imagine the kind of exposure that our minors, our children, across our country will be exposed to.

We know that there is a problem with workplace safety. Recently there was an announcement by the Canadian military about the adjustments they may make, but I sat next to commanding officers at a regimental dinner who said, "We have had a zero tolerance policy, and I'm sure that will continue." So when I saw the recent report, what could happen in workplaces concerned me but also for the Canadian military, and what they are operating with at the best of times, and how important it will be to monitor carefully. But in a place with a zero tolerance culture, I think it's going to be quite an adjustment.

So despite the government's assurances — I know I have raised this before — Senator Massicotte asked the question to Senator Harder about where the evidence is that legalizing marijuana and having a legal market will reduce the contraband or illegal black market. We know the infrastructure is there, and I believe that will be used to ensure that the black market is alive and growing. Otherwise, how can we explain that suddenly, with our legalization, certain companies have announced that they are going to be tripling or making their companies 10 times larger by the end of this year? Where is all of this cannabis going?

So Canada is to become the second country in the entire world, federal jurisdiction, to legalize cannabis. I guess we're going to become exporters to the world. That is not something that I want to see or support.

I have expressed before that the criminalization of marijuana has not worked, and we must address that. That should be our urgent focus, rather than opening up the entire nation to a legalized marijuana market without having seen at least the details of the regulations as well as assurances of preparation to ensure that Canadians, societies and municipalities are ready for what is about to happen. I foresee a lot of gaps in the overall system in the first five years, and we should all be very concerned.

As the vote on this message from the house is before us, I urge honourable senators once again to carefully think about what we are voting on. I know that I will be voting against the message, which in essence reminded us that all the work we had done had been in vain, because most of it was rejected. Most of the

amendments that the government accepted were their own technical amendments to errors that they had made in the drafting of the original bill.

I urge all honourable senators to carefully vote in this final vote on the message from the house and reject that message. Thank you.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Harder, P.C., seconded by the Honourable Senator Mitchell, that the Senate agree to the amendment the House of Commons made to — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on a bell?

An Hon. Senator: Thirty minutes.

The Hon. the Speaker: The vote will take place at 7:18 p.m.

Call in the senators.

• (1920)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Griffin
Bernard	Harder
Black (*Alberta*)	Hartling
Boniface	Jaffer
Bovey	Lankin
Boyer	Lovelace Nicholas
Campbell	Marwah
Cools	Massicotte
Cordy	McCallum
Cormier	McPhedran
Coyle	Mercer
Dalphond	Mitchell
Dasko	Moncion
Dawson	Munson
Day	Omidvar
Deacon (*Nova Scotia*)	Pate
Dean	Petitclerc
Downe	Pratte
Duffy	Ravalia
Dupuis	Richards
Dyck	Ringuette
Eggleton	Saint-Germain
Furey	Tannas
Gagné	Wallin
Gold	Wetston
Greene	Woo—52

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Forest	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tkachuk
Manning	Verner
Marshall	Wells—29
Martin	

ABSTENTIONS
THE HONOURABLE SENATORS

Galvez	Mégie—2

BUDGET IMPLEMENTATION BILL, 2018, NO. 1

FIFTEENTH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON SUBJECT MATTER—DEBATE CONCLUDED

The Senate proceeded to consideration of the fifteenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (*Subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*), tabled in the Senate on May 31, 2018.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to the fifteenth report of the Standing Senate Committee on Energy, the Environment and Natural Resources.

As a long-standing member of this committee, I was pleased to participate in the pre-study of certain elements of Part 5 of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27,2018 and other measures. Part 5 is also known as the greenhouse gas pollution pricing act, and it outlines the federal backstop for carbon tax in Canada.

Colleagues, before, during and after the study, I was seriously concerned with the effect that a carbon tax would have on my home territory of Nunavut. When Nunavut signed the Pan-Canadian Framework on Clean Growth and Climate Change on December 9, 2016, in Vancouver during the first minister's conference, red flags were immediately raised. The Honourable Joe Savikataaq, then Minister of the Environment, said he was "caught off guard." Minister Savikataaq, now premier, told reporters that while the ". . . environment ministers have acknowledged that the North is unique, and there should be special circumstances . . . [Nunavut] can't be asked to take on any more financial burden than we already have."

The Government of Nunavut and municipal governments are huge consumers of fuel and electricity. Outside of a few mining companies that bring in fuel for their own consumption, all petroleum products are imported by the GN's Petroleum Products Division. Companies such as Kitnuna and Uqsuq operate under a Government of Nunavut contract to lease and operate the bulk storage facilities — we fondly call them tank farms — and pipeline distribution systems. But the GN is ultimately the sole buyer and vendor of fuel in Nunavut.

Under carbon pricing regimes, when the Government of Nunavut buys petroleum through southern Canadian suppliers, there is or already will be a carbon price built into the cost of that fuel, resulting in a potential double taxation on the fuel as it is then distributed throughout Nunavut.

According to the Nunavut government's description of the energy issue:

> Nunavut is completely dependent on imported petroleum products to support everyday living. The four main products shipped are 114 million litres of diesel P50 for heating, 33.4 million litres of diesel for electrical generation, 17.8 million litres of gas for vehicles and 43.8 million litres of jet fuel for aircrafts. Petroleum products are shipped to communities in the summer months and stored in tank farms for distribution and use throughout the year.
>
> The GN pays for this energy use both as a consumer and through subsidies to Nunavummiut. The GN spends a significant portion of their budget on energy.
>
> The GN energy strategy sets out several measures for controlling costs, reducing usage, and promoting greater self-sufficiency in energy. These include exploring alternate electrical power production on a large scale, such as hydro electricity, and solar and wind power generation on smaller scales. Finally, the GN is also exploring energy conservation initiatives to reduce energy consumption to reduce overall dependency on oil.

• (1930)

Due to heavily subsidized rates, it is difficult to get a clear picture of what that means in terms of cost. The clearest breakdown of costs by the Government of Nunavut, the Qulliq Energy Corporation and the Nunavut Housing Corporation comes from the GN's Climate Change Secretariat's Ikummatiit power website, which is dedicated to the GN's energy strategy, based on data from the 2012-13 fiscal year. The Petroleum Products Division purchased approximately $195 million in fossil fuels. The Qulliq Energy Corporation purchased approximately $42 million of fuel for electricity, Nunavut Housing Corporation purchased approximately $43 million for heat and electricity, and the Government of Nunavut itself spent approximately $21.6 million for electricity and $6.7 million on fuel from their Petroleum Products Division.

Total expenditures by the Government of Nunavut and all related parties are therefore estimated at $338 million. That number is approximately 25 per cent of the $1.34 billion 2012-13 budget.

A joint study between the federal and territorial finance departments was launched to study the potential impacts of the tax on the territory, but the final assessments were never released. On February 1, 2018, a letter tabled with our committee sent from the Government of Nunavut's Minister of Finance, David Akeeagok, to his federal counterpart, Minister Morneau, wrote:

> Nunavut's businesses, households and governments have few workable alternatives to carbon-intensive activities. We are concerned that carbon pricing will not be an effective or efficient tool to reduce Nunavut's carbon emissions.

He went on to say:

> These concerns are not new. Territorial officials have been raising these issues with federal counterparts since before Canada released the Pan-Canadian Framework on Clean Growth and Climate Change. . . . ECCC recently finished its impact study, but we have not yet seen the federal assessment and proposal of solutions for Nunavut.

As you can imagine, colleagues, I was very concerned to hear that Nunavut, at this late juncture, continues to lack the information they need to make sound decisions about mitigating the potential harmful impacts of a carbon tax in the North. That is why I've been seeking answers from the Government Representative in the Senate and, recently, from Minister McKenna's office.

I received a promise of a letter explaining the special accommodations that Nunavut would be receiving last Wednesday, and I want to thank Senators Harder and Mitchell for helping to ensure the letter was received in time for this debate.

In the letter, Ministers McKenna and Morneau commit to "... relieve fuel used for aviation in the territories from the fuel charge component of the federal backstop through the regulations that will be required to implement the backstop."

The ministers went on to explain in their letter that they would convene a "discussion on mining operations in the territories" and continue to work with territorial counterparts to "reduce their reliance on fossil fuels while helping communities become more resilient to the inevitable effects of climate change."

Honourable senators, this is a very positive first. I thank the government for recognizing the unique circumstances of the North. Residents of all 25 fly-in-only communities in Nunavut are heavily reliant on air transportation for travel and shipping.

However, I must admit that I remain concerned about the continued silence on the final determinations of the joint impact assessment study. I'm also concerned that there's a lack of concrete solutions being offered to mitigate the impact this tax will have on home heating and electricity, because aviation fuel is only just over 20 per cent of our fuel consumption in Nunavut.

I'm grateful there's been a measure to exempt aviation fuel from carbon pricing in Nunavut, but the other 80 per cent — the gasoline that hunters use for hunting and fishing, the diesel we must rely upon to produce electricity and home-heating fuel — there's still uncertainty about whether that will be taxed in the jurisdiction with the highest cost of living in the country, a jurisdiction where 45 per cent of the residents receive income support.

The focus, therefore, must be on keeping money in the pockets of those who need it most. According to Statistics Canada, as of June 2017, Nunavut had an unemployment rate of 16.3 per cent in a jurisdiction where the average cost of a chicken is $16 per kilogram as opposed to an average cost of $7 per kilogram throughout the rest of Canada.

The tax could cost Nunavut residents potentially hundreds of dollars a year more in heat and energy. To understand the unfair burden this places on residents, let me put into perspective what Nunavut emits in terms of greenhouse gas emissions.

In 2013, Canada was responsible for 1.6 per cent of global greenhouse gases. Nunavut represents a fraction of that total, making up 0.0008 per cent of Canada's total GHG emissions. According to Environment and Climate Change Canada, Canada emitted 721.8 megatonnes of carbon dioxide. Based on the department's figures for emissions by province or territory, Nunavut emitted 0.6 megatonnes, second only to Yukon with 0.3 megatonnes.

Canada ranks lower than bigger emitters such as China and the U.S., which rely on greenhouse-gas-generating coal to generate electricity, due to the fact that Canada produces 60 per cent of its energy by clean hydro power while another 3 per cent of total energy consumption is generated by non-hydro renewable energy sources such as biomass, wind, tidal and solar. Conversely, the U.S. and China produce 30 per cent and 73 per cent respectively of their electrical energy from coal sources.

So not only will this tax be punitive for residents, but it places Nunavut's competitiveness at risk. It's already up to three times more expensive for a mining company to operate in the North versus the South.

Last year, I attended an insightful presentation by Agnico Eagle's president, Mr. Ammar Al-Joundi, at the Nunavut Mining Symposium this past April. There, Mr. Al-Joundi gave a welcome announcement of a further investment in gold mining operations in Nunavut of a significant $1.5 billion, which will increase their northern workforce from 1,100 to 2,000 in this region with the highest unemployment in Canada.

However, Mr. Al-Joundi also told the symposium that while the company wants to reduce the burning of fossil fuels and understands the importance of the imposition of a carbon price in Canada designed to encourage the use of alternate energy sources, he told the symposium, "If you say I'm going to penalize you for using fossil fuels where there is no alternative, that's not a policy. That's a tax." He said that the carbon tax, as proposed, would cost the company $20 million a year by 2023, which would jeopardize the viability of this mine.

Honourable senators, while again I commend the government for taking the first step by exempting aviation fuel from the carbon tax in Nunavut — and I do welcome that — I will continue to push for further concessions on fuel used for heating, electricity and gasoline, as well as concessions for Nunavut's developing and burgeoning mining sector. Thank you.

(Debate concluded.)

• (1940)

TWENTY-NINTH REPORT OF NATIONAL FINANCE COMMITTEE ON SUBJECT MATTER—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the twenty-ninth report of the Standing Senate Committee on National Finance (*Subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*), tabled in the Senate on June 12, 2018.

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to share a few comments regarding Bill C-74, Budget Implementation Act 2018, No. 1.

Particularly, I wish to highlight some of the concerns raised by witnesses during the pre-study undertaken by the Standing Senate Committee on National Finance.

I wish to address some policy considerations with respect to the tax changes within Division 1 of Bill C-74 relating specifically to income sprinkling and passive investment income for private corporations, but which targets very small and medium businesses within this category, which are the backbone of our economy.

During our pre-study and our initial study, we heard from witnesses who felt that they were being vilified for following the law as it was. They did not feel that they were doing anything wrong, and they felt that they were being unduly questioned about the tax breaks as the government seemed to think they had. We heard from many witnesses in our cross-country tour, and I think that is already on the record. It continues to be a lingering difficulty for many of the small businesses.

During our committee pre-study of Bill C-74, witnesses noted that the government's approach to consultation did not allow for sufficient or realistic engagement with Canadians. I would refer honourable senators to our National Finance Committee's report entitled *Fair, Simple and Competitive Taxation: The Way Forward for Canada*, which was released on December 13, 2017.

In her appearance before the committee on May 2, 2018, Ms. Rachel Gervais, Partner, GTA Group Tax Service Line Leader, BDO Canada LLP, stated:

> If you want to approach tax reform and new legislation in a better fashion, you bring all stakeholders to the table at the time the legislation is first being drafted. You include government officials, taxpayers and tax practitioners, as well as policy, government and education, and you put them altogether in a room to come up with the right solutions, rather than launch very complicated legislation, wait for the reaction by tax practitioners and taxpayers, and then have to make changes down the road.

Despite modifications to the July 2017 proposals, witnesses raised a number of concerns with respect to the revised tax proposals contained in Bill C-74 that still remain. Notably, witnesses advised the committee that the new income sprinkling proposals remain complex and difficult to interpret.

Witnesses shared further concerns with respect to the administrative burden that will be placed on small businesses as a result of these tax changes.

In order to prove eligibility for an exemption to the new income sprinkling tax, small businesses will be required to produce records and time sheets.

Appearing before the committee on May 2, 2018, Ms. Jennifer Kim Drever, Partner, Tax, MNP LLP, shared the following concern:

> Most family-run businesses, including family farms, do not have any history of keeping track of hours worked for their business owners. We question how we will be able to satisfy the CRA when we do have audits. We will have no evidence at all other than personal testimony.

There was also a concern about the interpretation of "reasonable" distribution of income by the Canada Revenue Agency. This was raised by some of our witnesses.

Mr. Ron Bonnett, President, Canadian Federation of Agriculture, in his appearance before the committee on May 8, 2018, stated:

> . . . the reasonableness test looks closely at prior labour contributions. While we believe most farm family members will be able to meet this requirement, the information required to demonstrate these contributions is unclear. Anyone who has worked on a family farm would know that there is no clock to punch.

Many witnesses highlighted a need for further guidance from the CRA as well as the Department of Finance with respect to the application of reasonability.

Further concerns were raised with respect to the implementation date of the new proposals.

Mr. Peter Weissman, Partner, Cadesky Tax, summarized the challenge facing taxpayers and tax practitioners to the committee on May 2, 2018, as follows:

> The fact that the tax is to be paid next April 2019 when you file your 2018 tax return is not the issue. The fact that we're now subject to the rules without even knowing what the rules are is the issue.
>
> It's not the matter of the timing of when the taxes are to be paid. It's the timing of when the rules are actually to take effect.

Consequently, many witnesses recommended a delay in the implementation to January 2019.

As senators are aware, a key component of Budget 2018 is the advancement of gender equality. In this spirit, much discussion in our committee surrounded the issue of gender-based analysis. The committee was informed by officials from the Department of Finance that a gender-based analysis was undertaken with respect to income sprinkling proposals.

We, however, were unable to ascertain the full extent of this analysis. Without a comprehensive understanding of this process, it remains difficult to comment or analyze gender-based analysis, and, consequently, to fulfill our duty of scrutinizing the budget according to what the government has put forward.

I trust, therefore, the government will be forthcoming in assisting us to understand this process. There is no reason not to disclose to senators — in fact, the House of Commons — what the process of gender-based analysis is. Simply to be told it was done is not sufficient.

Moreover, the committee heard testimony with respect to the effects of the tax proposals on women. Particularly, the committee was informed that income sprinkling proposals may not accurately reflect the indirect contributions of women to small businesses, particularly family-run businesses.

Once again quoting from the testimony of Ms. Jennifer Kim Drever, Partner, Tax, MNP LLP:

> I do know that the paper released with the legislation mentioned that 68 per cent of the people in receipt of the split income dividends were women, not all the dividends but the split income dividends. To me, this causes some concern, and it causes concern for a lot of women that they would be the ones having to defend the reasonability a lot more.

In light of this reality, some witnesses recommended an exemption for spouses from the income sprinkling rules.

With respect to female entrepreneurs, Dr. Nadia Alam, President, Ontario Medical Association, in her appearance before the committee on May 8, 2018, stated:

> It's important to note that these changes will disproportionately impact women physicians who use the measures to save for maternity leave, child care and other financial planning initiatives.

She went on to say:

> I am sure all parliamentarians will agree that women should not have to choose between having a family and being able to actually practise as a physician in Canada.

I would also like to highlight an additional concern raised with respect to lowering the small business tax rate. In addressing the committee, Mr. Peter Weissman, Partner, Cadesky, Tax, summarized the issue as follows:

• (1950)

> By lowering the tax rate from 11.5 per cent to 9 per cent by 2019, that means on $500,000 of income a company will save $7,500 of tax. This was marketed by the government as a great boon for business.
>
> The reality, if you look in the footnotes of the backgrounder released on October 16, I think it was, there's a little footnote that says there will be an increase in dividend tax rates. We have a 1.5 per cent decrease in small business tax rates from 2019 on, and we essentially have a 1.5 per cent increase in dividend rates from that date on.

Finally, I would like to highlight the issue of Canada's tax competitiveness. Many witnesses advised the committee that a comprehensive tax review is needed urgently in Canada. They reaffirmed the need to undertake this review collaboratively with the engagement of all relevant stakeholders.

Colleagues, with taxpayers and stakeholders urging the government to embark on this process, a review can and should be undertaken swiftly.

Competitiveness is important for Canada. We cannot continue to have a tax system that everyone indicates is too complicated, outdated and will not make us competitive for the future. Throughout our pre-study and our study of the bill, the urgency of tax reform was front and centre and continues to be, so I hope the government is listening.

Thank you.

Hon. Rosa Galvez: Honourable senators, I rise today to speak to the Finance Committee report on Bill C-74, An Act to implement certain provisions of the budget. I will speak to Part 5 of the bill, the proposed greenhouse gas pollution pricing act, or GGPPA, which aims to mitigate climate change by applying a pricing mechanism to greenhouse gas emissions as laid out in the Pan-Canadian Framework on Clean Growth and Climate Change.

We all have seen how global climate patterns are changing and the unprecedented increase in the frequency of extreme weather events. The earth's atmosphere is warming because gases such as water vapour, carbon dioxide and methane retain heat. Without greenhouse gases, the earth's average surface temperature would be about minus 18 degrees centigrade rather than a livable 15 degrees centigrade. Scientists agree with very high certainty that human activity is responsible for the recent and rapid rise of GHGs in the atmosphere.

Given the devastating impacts of extreme weather events due to climate change, jurisdictions around the world are choosing to impose controls on pollution such as pricing carbon.

I will try to explain some of the myriad reasons why Canadians must act to combat climate change, how humanity is at a historical crossroads and why we must do our part to limit anthropogenic GHG emissions.

It's not news that these emissions cause planetary warming. In 1938, steam engineer Guy Stewart Callendar wrote:

> Few of those familiar with the natural heat exchanges of the atmosphere, which go into the making of our climates and weather, would be prepared to admit that the activities of man could have any influence upon phenomena of so vast a scale. . . . I hope to show that such influence is not only possible but is actually occurring at the present time.

[*Translation*]

It is also important to note that ExxonMobil has funded research on climate change. It published over 180 scientific papers on climate change between 1977 and 2014, which ironically helped to improve our understanding of the global system and human-caused warming.

The Intergovernmental Panel on Climate Change, or IPCC, was created in 1988 to assess the impact of climate change on our planet.

[*English*]

I'm sorry, your honour, I cannot concentrate because I hear some noise.

The Hon. the Speaker *pro tempore*: Will you all give Senator Galvez the politeness of listening quietly? Thank you.

Thank you, senator.

Senator Galvez: Thank you.

[*Translation*]

The IPCC's reports summarize the most recent developments in climate science and identify vulnerabilities and strategies to adapt to and mitigate the effects of climate change. The fifth report is the most complete summary synthesis to date, with contributions from over 830 independent experts from over 80 countries. These reports provide our policy-makers with the most objective scientific and technical assessments of climate change.

The IPCC's reports unequivocally show that the climate system is warming. The atmospheric CO_2 concentration is 40 per cent higher than it was in the pre-industrial era, mainly because of greenhouse gas emissions from the burning of fossil fuels. Oceans have absorbed 30 per cent of the CO_2 emitted, causing another serious environmental problem, ocean acidification. Anthropogenic greenhouse gas emissions must be controlled to ensure the survival of humans and other species with which we share this planet.

[*English*]

Engineers have known about climate change for a long time. We are on the front line of a changing environment. We modify and adapt design practices to accommodate new forces and stresses caused by increased rainfall, flooding, landslides, erosion and extreme weather events which have destructive impacts on infrastructure.

In 2017, 17 weather-related disasters cost the U.S. government $16 billion each. The total costs of the disastrous Hurricane Harvey were estimated at $125 billion. In Canada, the International Institute for Sustainable Development estimates that extreme weather events cost taxpayers $1.6 billion in 2015 and that the costs related to health and well-being are likely much higher as climate disasters also spread disease, reduce biodiversity, increase conflict and reduce productivity.

The effects of climate change are more dramatic in the North, as my colleague Senator Patterson has many times explained. It causes changes in flooding, precipitation patterns, near-surface permafrost thaw and freeze-thaw cycles and coastal erosion. Permafrost melt causes damages to roads, housing, buildings, runways at airports, rail lines, and oil and gas pipelines.

Revenue generated from carbon pricing can assist in the funding of technology to adapt in order to mitigate damages and protect existing infrastructure.

[*Translation*]

Climate change also raises important ethical issues. The first ethical issue stems from the truly global nature of climate change. Greenhouse gas emissions affect the atmosphere, and impacts can be felt all over the planet, no matter where the emissions originate from.

The second ethical issue is that emissions have profound intergenerational effects. The emissions will persist in the atmosphere, oceans and biosphere for hundreds and even thousands of years. The time lag is an ethical issue because we expose future generations to potentially more severe cumulative effects.

The third ethical issue is that our theoretical tools to deal with the causes of global climate change and assess its impacts are underdeveloped in several areas, namely international justice, intergenerational ethics and world environmental dialogue. For example, what is the value of biodiversity on our planet? Are we not morally compelled to protect the environment?

Putting a price on carbon pollution could alleviate these moral pressures by funding environmental protection and resilient infrastructures to support future generations. In other words, polluters pay for the damage they cause.

Canada signed the United Nations Framework Convention on Climate Change in New York in 1992, the Copenhagen Accord in 2009 and the Paris Agreement in 2015. Canada agreed to take action to reduce emissions in all sectors of the economy, to accelerate the so-called "clean" growth and to build its resilience to the impacts of climate change.

The Liberal government promised a clean environment and a strong economy by linking growth to sustainable development. It promised it would take action on climate change by cutting pollution caused by carbon emissions and by putting a price on carbon. In honouring that promise, the government will build a sense of trust in democracy and assert its leadership role on the international stage.

[*English*]

The OECD found that either directly pricing carbon or a cap-and-trade system are the most effective ways to reduce emissions. The International Monetary Fund and the World Bank have endorsed these pricing systems as the best way to reduce emissions, preferable to other policies such as feed-in tariffs, industry regulation and even subsidies.

• (2000)

These organizations and the World Economic Forum recommend, in addition to carbon pricing, the removal or reduction of fossil fuel subsidies and regulations that incorporate a social cost of carbon.

The GGPPA requires jurisdictions to put a price on carbon. To date, Quebec, Alberta and B.C. have a carbon price. These provinces represent more than 80 per cent of Canada's population.

Ontario, I know, is planning to cut, but, already, there will be some penalties to come out from the market. Jurisdictions that do not have a carbon pollution pricing system that meets the federal standard in place by 2018 will be required to implement the backstop. The backstop has two key elements: a carbon levy for fossil fuels and an output-based pricing system for industrial emitters above a certain threshold. The GGPPA considers vulnerable sectors by providing relief from the carbon levy, including: fuels used at facilities where emissions are accounted for under the output-based element; gasoline and diesel use by registered farmers; fuel exported or removed from backstop jurisdictions; fuels used in an international ship's store; or fuel used as raw material or as a diluent or solvent in a manufacturing or petrochemical process in a manner that does not produce heat or energy.

A carbon pricing system is not new in Canada. In 2007, Alberta became the first jurisdiction in North America to impose a carbon price on emitters. Later that year, British Columbia and five U.S. states signed the Western Climate Initiative to develop a regional target for reducing emissions with Manitoba, Ontario, and Quebec. That same year, Conservative Minister of the Environment John Baird called carbon trading a "key part" of the government's emissions plan, targeting oil and gas producers and coal-fired power plants. In 2008, B.C. implemented a carbon tax, with proceeds going back to taxpayers.

The benefits of the carbon market to taxpayers, industry and businesses go much further than cost-efficient GHG emissions reductions. Pricing carbon encourages a low-carbon economy, sustainable development, and more efficient extraction and use of natural resources.

The Standing Senate Committee on Energy, the Environment and Natural Resources, which I chair, heard 30 witnesses, representing 19 organizations, stakeholder groups, NGOs, think tanks and government departments. The committee also received written submissions. Generally, industry witnesses were supportive of GHG emission reduction efforts and well-designed carbon pricing plans. NGOs and research organizations clarified that carbon pricing systems work and are the lowest-cost approach to achieve Canada's emissions reduction goals.

Letters from the Governments of Nunavut and Yukon were generally supportive of carbon pricing as a mechanism to reduce carbon pollution. The government of Nunavut noted that the territory faces challenges, particularly its reliance on diesel, as carbon pricing can only be effective where there are low-carbon alternatives.

The government must offer the alternative of low-carbon technology. The Government of Yukon noted that the carbon pricing system must be applied with consideration to the unique circumstances of the territories. In our committee's report, we noted that the federal government must consider the special energy circumstances faced in the territories when implementing carbon pricing.

Dear senators, for the aforementioned reasons, I am supportive of the implementation of the greenhouse gas pollution pricing plan.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise on this occasion to put on record my concerns about Bill C-74, the budget implementation act, 2018, and to speak to this report.

This bill implemented provisions of the budget tabled in Parliament last February, as well as a few new provisions that were not included in the original budget. I'm deeply concerned about this bill, which was unexpectedly rushed through the Senate during Routine Proceedings. While Canadians from coast to coast to coast are preparing to celebrate Canada Day and the summer holidays, economic uncertainty and stress seem to be on the rise. More than ever, with the strained NAFTA negotiations and the looming trade war with our largest trading partner south of the border, Canadian business owners need the government's support and assurances to be able to keep their businesses afloat, let alone keep their current employees working through this difficult time. Unfortunately, this 559 page omnibus bill does provide relief, but places more tax burden on the shoulders of hard-working Canadians.

Colleagues, I have always, and will continue to, rise in defence of small businesses. They truly are the backbone of our economy, accounting for about 97.9 per cent of all businesses in Canada and employing more than 8.2 million Canadians across the country. They represent family-owned businesses, like farmers, convenience store owners and laundromat operators, and families working day and night to make ends meet to put food on the table. They represent aspiring entrepreneurs who envision bettering the lives of others through their innovation. They represent medical doctors, accountants, lawyers, who have gone through years of rigorous training.

In light of the Trudeau government's announcement that it would cut the small business tax rate to 9 per cent, effective January 1, 2019, in support of the middle class and those working hard to become a part of it, what they are not telling Canadians is that the new measures included in this bill will make it harder for small businesses to qualify for the small business tax rate. The new rules on passive income, coupled with the new income sprinkling rules, which abruptly came to an end this past January, along with other provisions set out in this bill, will have small businesses paying more tax, not less.

According to a report from the Government of Canada entitled *Tax Measures: Supplementary Information*, the government itself expects to collect $43 million in extra revenue in the current fiscal year through the changes in passive income rules. By 2023, it projects to collect additional tax revenue totalling $2.3 billion. To me, this sounds like pickpocketing the middle class and those working hard to become a part of this class.

What is passive income, and why is it important in this context? Passive income is derived from any source in which the investor does not have active participation in the business. This includes investment in bonds, stocks, limited partnerships, income trust funds, et cetera. This is different from the day-to-day income one earns from their business, for example, sales of goods and services. This matters because passive investments allow businesses to diversify their income streams and permit them to put away money for future anticipated needs. Businesses may use passive income during the bottom of the business cycle, when sales are down and they need to offset losses incurred. Passive income can also be used to save for new equipment or property for the future.

The government's new rules would essentially penalize businesses for earning passive investment income. Under the new rules, businesses that earn anything above the $50,000 passive-income threshold would effectively see their small business deduction limit shrink, until they no longer qualify for the small business tax rate. Any business that earns $150,000, $100,000 in excess of the $50,000 threshold, in passive income would in effect be ineligible for the small business tax rate.

At second reading of this bill on June 11, I asked Senator Mitchell, the sponsor, how toughening the rules of passive income and income sprinkling will help small businesses. To that, the senator replied, ". . . passive investments don't create jobs. . . ."

I respectfully disagree. If government discourages small businesses from investing in passive income, they will be left more vulnerable should there be an economic downturn. Passive investments allow businesses to keep staff when the going gets tough. Think of it as a rainy day fund.

Small business owners assume risk and often forego salaries for themselves to ensure the success of their business. I find it unfitting for government to impose a one-size-fits-all policy to Canadian-controlled private corporations, CCPCs. Each small business faces unique sets of opportunities and challenges, and Canadian business owners have a much better understanding of their own challenges and opportunities than the government. In fact, a recent petition tabled in the House of Commons last Monday was signed by more than 45,000 Canadians calling on the government to abandon its package of small business tax changes.

In the current climate of protectionism, passive income has become ever so important. Along with the ongoing, shaky NAFTA negotiations, which includes a potentially dangerous trade war with the United States, our biggest trading partner, Canadian businesses need the government's support more than ever. It is exactly for uncertain times like this that small businesses put aside money. It lessens the financial impact during economic hardships. More than 70 per cent of our exports go to the United States. The two economies are closely intertwined, and the current state of the bilateral trade relations means a hard hit for Canadian businesses and their employees.

• (2010)

What is even more insulting to small businesses in Canada is the federal government going back on its word about grandfathering existing passive investments. Initially the government promised that passive investments held before the new rules came into force would be exempt. Dan Kelly, President of the Canadian Federation of Independent Business, said:

> The proposed rules penalize businesses that have been compliant with the law and acted prudently in the face of economic uncertainly and risk by creating a capital reserve through passive investments. We're asking the government to keep the promise they made to the small business community and protect firms with previous passive investments from the new rules before the budget is signed into law.

By breaking this promise, the federal government will now be unfairly taxing businesses who have held passive investments well before and shortly after the original changes were announced. Matthew MacAdam, partner and leader for tax services in Nova Scotia at Grant Thornton said that the government's change of heart was unexpected in the Canadian business world. He went on to say that he felt for clients "who transferred passive assets into their corporations ahead of the budget, thinking they were doing themselves a favour, only to realize today that their passive income will cause the corporation to lose some of its small business deduction starting in 2019."

These unfair tax changes will have a ripple effect, cutting into other industries, including the financial industry. RBC President and CEO Dave McKay said:

> We would certainly encourage the federal government to look at these issues because, in real time, we're seeing capital flow out of the country.
>
> . . . if we don't keep the capital here, we can't keep the people here . . . .

Investors follow certainty. We are sending the wrong signals to entrepreneurs and investors with these changes.

Senator Mitchell also proudly stated that the Trudeau government has created 600,000 very good jobs in the last two years. Unfortunately, those jobs that were created temporarily through short-term fiscal stimulus are disappearing, and they are disappearing fast. According to an article from *Financial Post* on June 14, it reported:

> While jobs in Canada have declined by 50,000 overall since December, the U.S. has added nearly a million new jobs.

The article further noted that:

> Statistics Canada found in its annual survey that firms plan to trim investment outlays this year by another one per cent, their fourth-straight annual decline. In contrast, a semi-annual survey of investment intentions in the U.S. found that firms revised up their plans to increase

> investment spending from a 2.7-per-cent increase just six months ago, all the way up to a 10-per-cent increase in the latest survey.

This should be alarming as decreased investment in Canada translates into fewer jobs for Canadians. This is another contradiction to the federal government's mandate of growing the middle class and reducing unemployment.

Colleagues, with the passage of Bill C-74 we have created a hostile business climate, inhibiting investments and savings, which is vital in today's world filled with economic uncertainty. The Canadian Federation of Independent Business noted, "Many of our members have expressed concerns about their ability to remain competitive in Canada, much less on a global stage, with some even expressing a desire to move their operations south of the border."

In order for Canadian businesses to flourish and create more jobs, the government ought to impose less red tape and less sneaky tax-grab measures to finance its out-of-control spending so that the businesses can allocate their resources in areas that they know will create more value for their businesses and good-paying jobs.

In this chamber, we often refer to small businesses as the engine of our economy. In my view, the provisions set out in Bill C-74 will impose more burdens than offer support to small businesses.

But what is done is done. Again, the government has only given lip service to small businesses, who have yet again been overlooked and are now overburdened with broken and empty promises. Conservatives have and will always stand up for small business and for all Canadian families.

Hon. Lillian Eva Dyck: Honourable senators, I rise today to briefly speak to the twenty-ninth report of the Standing Senate Committee on National Finance, the subject matter of Bill C-74.

Specifically, I would like to focus my remarks on Part 3 of Bill C-74, which includes the proposed amendments to the Excise Act, 2001 (cannabis taxation), the Excise Tax Act and other related texts.

As indicated in the title of this part, it includes the excise tax framework to the legalization of cannabis, which will occur when Bill C-45 receives Royal Assent and the bill is implemented.

As senators know, this issue of excise tax revenue sharing agreements between the provinces and the federal government on cannabis came up during the Standing Senate Committee on Aboriginal Peoples' study of Bill C-45.

According to the agreement reached, the excise tax collected on cannabis will be split 75 to 25 between the provinces and territories and the federal government. What we heard at the committee was that there should be an excise tax revenue sharing mechanism for First Nations as well. However, as I said in my speech at report stage of Bill C-45, on the report from the Standing Senate Committee on Social Affairs, Science and Technology, we in the Senate face a quandary in trying to rectify this. We were advised that Senate amendments to create or impose a new tax or that require an appropriation of funds are out of order. That role is reserved for the elected house, the other place.

I want to advise senators that in this regard we did consult the Law Clerk's office and we were advised that such amendments would be outside the powers of the Senate as prescribed in our practice and procedures through various speakers' rulings and the constitutional provisions of section 53 of the Constitution Act, 1867, that specifically states:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Colleagues, because Bill C-45 did not contain any specific clauses that dealt with the excise tax framework, there was no place to amend it with regard to excise tax revenue sharing for First Nations. That framework and those provisions are contained in Bill C-74.

During the pre-study of Bill C-74 at the Finance Committee, this issue of First Nations excise tax was also raised and is reflected in their committee's report as well.

The Finance Committee also heard from the Chief Commissioner of the First Nations Tax Commission, Manny Jules. Parliamentary Secretary Bill Blair also addressed the issue of First Nations excise tax revenue sharing models for cannabis in his appearance before the committee. The Finance Committee reported it in their observations:

> Our committee encourages the government to continue its discussions with First Nations in accordance with their jurisdiction.

Parliamentary Secretary Bill Blair stated at the Standing Senate Committee on National Finance, on May 23, 2018:

> The government has been engaging with Indigenous groups to seek their views and access to tax revenues. It is part of a wider discussion on the development of a new fiscal arrangement with First Nations Indigenous communities that's taking place currently with the government.
>
> . . . I believe the cannabis revenue and taxation issues are more appropriately dealt with within the context of that larger framework rather than as a single event.

• (2020)

Colleagues, I will name the Indigenous senators because there is some confusion as to who they are: Senator Sinclair, Senator Christmas, Senator McCallum, Senator Boyer, Senator Brazeau, Senator Lovelace Nicholas and me.

In response to the Standing Senate Committee on Aboriginal Peoples' report on Bill C-45, and to the added concerns of all the Indigenous senators, the Minister of Indigenous Services, Jane Philpott, and the Minister of Health, Ginette Petitpas Taylor, issued a public letter to the committee addressing the significant Indigenous concerns about the bill, and Senator Harder read that letter into the debate at third reading of Bill C-45.

Now, on the specific issue of the need to come to an agreement with First Nations over the issue of excise tax revenue sharing on cannabis, Ministers Philpott and Petitpas Taylor stated in their letter to me and to Senator Tannas:

> The Government has previously agreed that our commitment to a new fiscal relationship with Indigenous communities will include discussions about revenue sharing and taxation arrangements. As you have asserted to us, this must include discussions with National Indigenous Organizations and organizations like the First Nations Tax Commission, among others. We are committed to advancing a new fiscal relationship with Indigenous communities based on the need for sustainable, sufficient, predictable and long-term funding arrangements.
>
> We will advance this new fiscal relationship with Indigenous communities by our commitment to sustainable, sufficient, predictable and long-term funding arrangements, in addition to supporting the continued development of First Nations taxation and regulatory regimes.

Furthermore, the government has committed to two formal reports, the first report by September, three months from now, and the second within 12 months of Royal Assent of Bill C-45. The senators on the Standing Senate Committee on Aboriginal Peoples will continue to push this issue forward and hold the government accountable to these words.

Colleagues, had it been possible to propose an amendment to actually accommodate an excise tax revenue-sharing system for First Nations within this current framework, as in Bill C-74, I or another Indigenous senator would have done so. However, as I have just explained, the Senate cannot amend a bill to cause the appropriation of funds or imposition of tax. Thank you.

(On motion of Senator Patterson, debate adjourned.)

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—MOTION IN SUBAMENDMENT—VOTE DEFERRED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Gold, for the third reading of Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins), as amended.
>
> And on the motion in amendment of the Honourable Senator Tannas, seconded by the Honourable Senator Batters:
>
> That Bill S-203, as amended, be not now read a third time, but that it be further amended,
>
> (*a*) by adding the following after clause 6 (added by decision of the Senate on April 26, 2018):
>
> "Exemption
>
> **7(1) Section 445.2 of the *Criminal Code*, section 28.1 of the *Fisheries Act* and section 7.1 of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* do not apply to a person whose name appears in the schedule to this Act.**
>
> **(2) If the Governor in Council is of the opinion that it is in the public interest, the Governor in Council may, by order, add a name to or delete a name from the schedule.**
>
> **(3) In determining whether it is in the public interest to add a name to or delete a name from the schedule, the Governor in Council must take into account whether a person**
>
> **(a) conducts scientific research in respect of cetaceans; or**
>
> **(b) provides assistance or care to or rehabilitates cetaceans.**"; and
>
> (*b*) by adding the following schedule to the end of the Bill:
>
> "**SCHEDULE**
>
> (Section 7)
>
> Designated Persons
>
> The Ocean Wise Conservation Association (Vancouver Aquarium)".

And on the subamendment of the Honourable Senator Plett, seconded by the Honourable Senator Wells:

> That the motion in amendment moved by the Honourable Senator Tannas be amended, in paragraph (*b*), by adding "Marineland of Canada Inc." after "The Ocean Wise Conservation Association (Vancouver Aquarium)".

Hon. Yuen Pau Woo: Your Honour, honourable colleagues, the last time we debated Bill S-203, a week ago, it wasn't really a debate. It was a series of bells that kept us here until quite late, mostly twiddling our thumbs, and as you will have observed it generally took a bit of attention in the media, but also more recently amongst our colleagues in the other place.

Some of you will be aware that there was a press conference today, I believe, held by four members of the House of Commons representing four different parties: Liberals, Conservatives, the NDP and the Greens, calling on us — let's put it directly — to get on with it, particularly on this bill, S-203, which has to do with whales and dolphins in captivity.

Now, if some of you are having trouble remembering when we had debates last — and last week doesn't count because it wasn't really a debate, it was a series of motions to adjourn, which were stretched out by one-hour bells — it's because we haven't had much debate on this bill for a long time, even though the bill has

been with us for over three years. In fact, for nearly four months in 2018, can you guess how many speeches there were? Zero speeches, even though the report was tabled in the Senate in October of 2017.

Senator Plett: How come you didn't speak to it?

Senator Woo: In fact, before the report arrived, this bill had been spoken to on seven occasions at second reading, on 17 occasions at the Fisheries and Oceans Committee hearings, and on an additional four occasions in terms of the consideration of the committee report.

I don't think I need to go into much more detail about how much time has elapsed on this bill, and the fact that we have dragged it out perhaps unconscionably.

Let me tell you a little bit more about what our colleagues in the other place had to say. They did it in the spirit of constructive advice, I think, but here are the words of Member of Parliament Michelle Rempel, a Conservative MP from Alberta, who says, "Let's come to a vote. We have debated these issues ad nauseum in both places, and I really do think the public mood has changed. That's my plea to my Senate colleague."

Other members of the House of Commons have said similar things. Tonight, when we were discussing Bill C-45, we talked a bit about the relationship between the two houses and the mutual respect that we hold for each other. From time to time, the house wants to give us advice as well. We would do well to give them the respect to heed the advice that they are offering us.

Colleagues, I'm not going to go into the debate on this bill, and certainly not on the amendments and the subamendment. We have heard the arguments already not only from honourable colleagues here, who are very passionate about this issue, but also from the experts who testified at the Fisheries Committee.

What I am instead standing up here very briefly to admonish and encourage is that we now please let this bill go to a vote. Let me be clear: I am not asking you or telling you how you should vote. That's not the issue. The issue is that the bill has been around for three years and it has been delayed for really an unconscionable amount of time. We should be able to have a vote, not just on the subamendment but also on the amendment and all the way through to the original motion.

Some Hon. Senators: Hear, hear!

Senator Woo: And it's not just this bill. I thank our colleagues in the House of Commons for reminding us that there are two other animal welfare bills that have been on the Order Paper for a long time that also have had extensive debate and have been dragged out for a variety of reasons. They are Bill S-214, duty-free cosmetics, and Bill S-238, shark fins. All three bills should be taken on their merits. I'm not trying to create a linkage amongst any of them. But there is, of course, a natural grouping of the three bills because they deal with animal welfare, and for that reason I'm bringing up these two other bills, which will come up in the Order Paper very shortly.

I also think there is a case, if it is the will of the chamber, to also bring those bills to a vote, but I want to specially advocate for the bill that I am now speaking on, Bill S-203, which has been on the Order Paper for the longest, which has seen particularly egregious acts of delay, and which I think the Canadian public is anxious to see us make a decision on. Once again, not a decision necessarily to vote yes or to vote no, but to simply come to a vote.

Perhaps there is a sign of support that we will go to a vote. I am about to sit down and ask to call the question, and I hope, colleagues, that you will question on all three and take us all the way through to the main motion because that's the whole point of this. If we simply have a vote on the sub-amendment, I think everybody will see that for what it is, another delay tactic, another attempt to obfuscate, to prevaricate, to procrastinate. We have enough of these "-ates."

• (2030)

I think my case is very clear. The decision is with us, and subsequently, with the two other bills that come up, I hope we'll all consider this in the way that's befitting of the upper house, the house of sober second thought, not slothful second thought, not delayed second thought, not dragged-out second thought. It's time for us to make a decision.

Colleagues, I hope you'll agree that we call the question all the way to the original motion. Thank you.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: In subamendment, it was moved by the Honourable Senator Plett, seconded by the Honourable Senator Wells, that the motion in amendment moved by the Honourable Senator Tannas be amended in paragraph (b) by adding "Marineland of Canada Inc." after "The Ocean Wise Conservation Association (Vancouver Aquarium)."

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: May I hear the "nays" first, against the motion?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: And those who are supportive of the motion?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: No, on the subamendment. Shall I read the sub-amendment again so there's no confusion?

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: No. All right. May I hear those in favour of the sub-amendment say "yes."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: And those not in favour?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: I think the "nays" carry it. Therefore, the sub-amendment is defeated.

Senator Plett: No.

The Hon. the Speaker *pro tempore*: Well, yes. It was defeated.

Senator Plett: Two senators standing.

The Hon. the Speaker *pro tempore*: Fine. That's what I was about to say, Senator Plett.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: I see two senators standing. Have you come to an agreement on the time?

Senator Plett: Defer the vote until tomorrow, at the next sitting of the Senate.

The Hon. the Speaker *pro tempore*: The vote will be deferred to tomorrow at 5:30 p.m.

FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator White, for the third reading of Bill S-214, An Act to amend the Food and Drugs Act (cruelty-free cosmetics), as amended.

Hon. Yonah Martin (Deputy Leader of the Opposition): Question.

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: Order, please. We're going to be here much longer, so let's just do this.

Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Stewart Olsen — excuse me, Senator Ringuette, you're moving adjournment of the debate?

Senator Ringuette: Yes.

The Hon. the Speaker *pro tempore*: That solves the question.

It is moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Dyck, that this item be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: All those in favour of the adjournment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those against the motion please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Is there an agreement, honourable senators, as to the time?

Senator Plett: One hour.

The Hon. the Speaker *pro tempore*: One-hour bell. Call in the senators. The vote will take place at 9:34 p.m.

• (2130)

The Hon. the Speaker: Order, please. Order!

Honourable senators, just for clarity, let me read this again.

It was moved by the Honourable Senator Ringuette, seconded by the Honourable Senator Dyck, that further debate be adjourned until the next sitting of the Senate.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Cordy	Jaffer
Day	Mercer—5
Downe	

NAYS
THE HONOURABLE SENATORS

Andreychuk	Manning
Ataullahjan	Marshall
Batters	Martin
Bernard	McInnis
Beyak	McIntyre
Boisvenu	McPhedran
Boniface	Mitchell
Bovey	Mockler
Cormier	Ngo
Coyle	Oh
Dalphond	Plett
Doyle	Poirier
Duffy	Pratte
Eaton	Ravalia
Forest	Richards
Gagné	Saint-Germain
Galvez	Seidman
Gold	Smith
Griffin	Stewart Olsen
Harder	Tannas
Hartling	Tkachuk
Housakos	Wells
Lankin	Wetston
MacDonald	White
Maltais	Woo—50

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare	McCallum
Carignan	Mégie
Dagenais	Munson
Dasko	Omidvar
Dawson	Patterson
Deacon (*Nova Scotia*)	Petitclerc
Dupuis	Ringuette
Dyck	Wallin—17
Greene	

• (2140)

The Hon. the Speaker: Resuming debate on Bill S-214.

Some Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill, as amended, read third time and passed, on division.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Moncion, for the third reading of Bill S-237, An Act to amend the Criminal Code (criminal interest rate), as amended.

Hon. Pierrette Ringuette: Honourable senators, I am pleased to rise today to speak at third reading of my bill, Bill S-237. It would reduce the criminal rate of interest, which is currently at 60 per cent.

[*English*]

First, I'd like to thank senators who have participated in the discussion on this very important "people issue."

The original version of the bill set the new limit at 20 per cent plus the Bank of Canada overnight rate for household loans. It also removes the cap for commercial loans over $1 million and keeps 60 per cent in place for smaller loans under $1 million.

I believe 20 per cent to be a reasonable amount, and I still do. Under this amount, the vast majority of loans would be unaffected; however, for those that exploit our most vulnerable citizens, it would dampen the level of exploitation.

The main targets are loans that hit those who have the least ability to pay but, ironically, must deal with the highest interest rate. High interest on some student credit cards, excessive late charges on others and instalment loans, et cetera, are examples, and even some phone companies charge 59.99 per cent on late payments.

I acknowledge that there are differing opinions on this. All committee members agreed that 60 per cent was too high. Then, honourable senators, it was a little bit like "The Price is Right" at our committee. "Higher, Bob. No, lower, Bob. No, higher, Bob." Finally, Senator Tannas played Vanna, and the bill was amended to a rate of 45 per cent with a three-year review period.

I am very pleased with the addition of the review mechanism. I believe it will be useful to maintain a reasonable rate.

On the specific level of the rate, while I am encouraged with the support for lowering the rate, I am happy to have this debate on what the right level should be.

I do believe that a rate of 45 per cent is way too high. I will propose an amendment, at the end of my speech, to lower it to a rate of 35 per cent, which I believe to be a reasonable compromise for the next three years.

Honourable senators, why do we need to lower the limit?

The Bank of Canada has recently reported that high household debt remains an elevated vulnerability to the Canadian financial system. That is particularly true for low- and middle-income Canadian families.

According to Statistics Canada, current household credit market debt is equal to 168 per cent of household disposable income. It has dropped slightly in the last two years but remains way too high if an economic crisis arises. This is an issue of economic stability for our country.

It is also an issue of those who can least afford to pay are hit with the highest rates, perpetuating a cycle of debt that is hard to get out of and putting pressure on our social support systems, be they federal, provincial or municipal.

Nearly half of Canadians, according to Ipsos Reid, are $200 away from insolvency after paying their monthly bills. A sudden financial crisis, such as a car or a house repair, medical prescriptions for a child or the elderly, can start a spiral of debt they cannot get out of.

Meanwhile, the big five banks earned $10.6 billion profit in the second quarter alone. That is up 11 per cent from last year. The same level of profit increase, year to year, has been maintained for the last decade. These same big banks have been reducing their presence in many localities and neighbourhoods, closing 1,800 branches in the last two decades, tightening their risks and eliminating our poorest families from their customer list.

No other Canadian sector is provided federal status guarantees for customer deposits or business loans. This privilege should be accompanied with strong corporate citizenship. However, it seems that, on the other hand, the banks view their corporate citizenship only if it is accompanied by high-level publicity, i.e., directed at their targeted customer. Therefore, in my perspective, these national banks are more interested in catering to the big boys than providing for their original calling, the federal charter, of being the banking system for all Canadians, not just a select few.

Honourable senators, there are several reasons I believe that a rate of 35 per cent is right.

First, in the early 1980s, interest rates were very high. The bank rate reached 21 per cent in 1981. Those who have mortgages will remember that. It was during that period that the federal government included interest rates of 60 per cent in the Criminal Code.

• (2150)

With a criminal rate of 45 per cent, as amended by the committee, plus 21 per cent as the overnight rate — 21 per cent in 1981 — the criminal rate would be 66 per cent, higher than the rate in the current Criminal Code.

Now, it may be that we never see these rates again — and I certainly hope so — but I think it is important to note that, looking at it historically, 45 per cent puts us in a position of possibly increasing the criminal rate above its current level in the future.

Another reason is that it would be consistent with the rate limit imposed in Quebec. While other provinces, except Newfoundland, have taken advantage of the payday loans exemption to set short-term rates in the vicinity of $15 per $100 for two weeks, Quebec has taken a different approach and will not provide a licence to businesses unless they agree to keep rates under 35 per cent. This is not a legislated rate cap but, rather, is imposed by the government's power to regulate licences, since the power to set interest rates is a federal constitutional power.

Section 8 of the Consumer Protection Act in Quebec provides that:

> The consumer may demand the nullity of a contract or a reduction in his obligations . . . where the obligation of the consumer is excessive, harsh or unconscionable.

This has been used by the Quebec courts, and, through this, the rate of 35 per cent was reached.

It is important to note here that this means that a cap of 35 per cent has been court tested, and it has been determined, generally, that rates above this are unconscionable.

In Quebec, this applies to loans under their licences, as in lease to own and all retailer loans, not just payday loans. Quebec provides a good example of how a system like this can be effective. The financial system has not collapsed in Quebec. People can obtain loans, and alternative options have arisen for short-term loans to those in need, for example, through Option consommateurs.

Another reason for 35 per cent is that, in 2005, this very chamber approved this rate in Bill S-19. In 2005, we approved a 35 per cent criminal rate in this chamber, plus the Bank of Canada overnight rate. This bill was passed by the Senate but did not pass second reading in the other place because of an election. The bill received support from both parties in this chamber and the Banking Committee as they existed at that time.

I also have a report that supports a rate of 35 per cent. This is a document from the National Consumer Law Center in the United States. I have had it translated and will distribute it to all senators, in both official languages, by email, as soon as I get to the office, I hope. The report is called *Why 36%? The History, Use and Purpose of the 36% Interest Rate Cap*.

Now, I understand some of you may have noticed that this report says 36 per cent, but, considering the previous two reasons for 35 per cent, I believe rounding down one percentage point is appropriate. Plus, my bill, Bill S-237, adds the Bank of Canada overnight rate for flexibility.

This report — and I strongly recommend that you take some time to read it — goes over the history of the interest rate cap in the United States and why 36 per cent is a generally accepted rate cap. The report is largely concerned with small-dollar and short-term loans.

In Canada, we have carved out a specific niche for provinces to limit payday loans, specifically, a loan of $1,500 or less for a term of 62 days or less. As recent court cases have shown, this is a limited carve-out, and so the criminal rate remains important in this respect as well because it applies to all other financial products that are greater than the combined $1,500 for 62 days.

To quote from the U.S. report:

> Interest rate caps are more than numbers: they are reflections of society's collective judgment about moral and ethical behavior, as well as business and personal responsibility.

Another quote from that report:

> Interest rate caps also reflect an assessment about the upper limits of sustainable lending that does not undermine individual or societal economic stability.

The report reasons that a 36 per cent cap is generally accepted as it has a long history in America, actually back 100 years in America at 36 per cent. It has been reaffirmed through state and federal governments and endorsed by the Department of Defense as the rate cap for loans to service members. Also, the Federal Deposit Insurance Corporation endorsed the limit for its small-dollar loan guidelines, and 15 U.S. states, plus D.C., have caps at or below 36 per cent. The report suggests that 36 per cent provides a rate that is reasonable to pay, while allowing for risk and costs, and that it incentivizes more sensible loans structures.

For these reasons, I believe that it is appropriate to set the rate at 35 per cent, plus the Bank of Canada overnight rate. This would put the current cap at 36.25 per cent in Canada.

I urge my fellow senators to take a look at the debates in the committee and the *Why 36%?* report and to endorse my amendment as soon as possible.

Honourable senators, with leave of the Senate, I move —

The Hon. the Speaker: Senator Ringuette, because this is your bill and you have already moved third reading, you're correct to ask for leave before you move your amendment.

Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no." I'm sorry, but the amendment cannot be moved.

Senator Plett: Give it to somebody to read it.

The Hon. the Speaker: Resuming debate, Senator Cools.

MOTION IN AMENDMENT

Hon. Anne C. Cools: Therefore, honourable senators, in amendment, I move:

> That Bill S-237, as amended, be not now read a third time, but that it be further amended in clause 1, on page 1, by replacing line 15 (as replaced by decision of the Senate on April 19, 2018) with the following:
>
> > "plus thirty-five per cent on the credit advanced under an".

The Hon. the Speaker: Anything on debate? Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: Anything on debate? Senator Tannas.

Hon. Scott Tannas: I rise to speak to the amendment provided today by Senator Cools. First of all, let me say I intend to support the bill in its original form, and I'd like to thank Senator Ringuette for bringing this important issue to light. At this point, honourable senators, I can't support the amendment. I'll give you my reasons.

• (2200)

First of all, Senator Ringuette referred to the 35 per cent experience in Quebec. The fact of the matter is that the formula for calculating the 35 per cent in Quebec is radically different than the formula that currently exists or that is in the amendment.

I'll give you some Quebec examples. The first one is with a Laurentian Bank Visa DOLLARS credit card. This is a standard credit card; it is not a premium card. The interest rate is 20 per cent, and the annual fee is $65. If a cardholder makes a purchase of $2,000 on this card and pays it back two months later, under the Quebec calculation, that would be 20 per cent interest, which would be legal. Under Senator Ringuette's amendment, as it stands, it would be 39 per cent and illegal. In fact, the President of the Laurentian Bank could be handcuffed and sent to jail.

That is the difference between the apples and oranges that we're talking about. That's one reason I'm troubled by the 35 per cent.

At the committee, we took into account a number of considerations when we voted to set the criminal rate at 45 per cent. We heard testimony and agreed that the way it sits right now for the criminal interest rate, this is not the right statute to try and fine-tune and oversee this industry in Canada. This is a blunt tool that is meant to hammer people over the head. This is not the right way to fine-tune it.

It was crystal clear to us that this industry needs significant regulation. Someone needs to be watching over what is going on. I was ashamed. I am one of the few living founders of a chartered bank, which I don't own anymore so I have no conflict, but it is shameful what is going on at the edges of the financial loan industry in this country. Poor people are paying the bill. What is worse is that it's poor people with integrity who are paying the bill because they are paying the interest rate while others borrow the money and don't repay it, which is why the interest rate has to be so high in the first place.

This issue definitely needs further oversight. We heard testimony that dropping the rate at this stage below 45 per cent could potentially suddenly dislocate customers who today rely on these loans. We have an interest rate at 60 per cent today. And we heard testimony from lots of folks that they are right up there at 59.9 per cent and doing a wonderful service for Canadians. A number of us did not buy that.

But there were a number of more legitimate lenders that had large customer bases that were making, by their description — and, frankly, I believe them — a modest return at 45 per cent. We felt it would be risky for us to wade into the Canadian financial services industry with a blunt instrument and start dislocating customers from their access to credit, however faulty it is. We felt that 45 per cent was a start; it's 15 per cent lower than it is today.

We felt that it would help signal a change. It would bring some light to this issue with the government, who should be acting on this. We went one step further and said, "Let's review this in three years." If the government ignores it, we would come back to it. I think there was a will around the committee that if they ignore this bill over on that side, we will revisit this because, in our view, what is going on is not good.

I want to leave you with a couple of other thoughts. As Senator Ringuette said, and she is quite right, the 60 per cent was set when the risk-free interest rate in Canada was 17 per cent. You could buy a Canada Savings Bond for 17 per cent. So if you wanted to make the dodgiest loan to the dodgiest customer, 60 per cent was maybe okay. But when the risk-free rate now is in the low single digits, 60 per cent can't possibly be justified.

However, we didn't want to repeat the same mistake that they made in 1982 and put a number that was too low because we are clearly on our way up for interest rates. We are probably at the total opposite of where we were in 1982 with respect to interest rates. It was moderation, but a meaningful step, that the committee agreed to 45 per cent.

Again, I want to thank Senator Ringuette for her vigilance and her tenacity on this issue. I urge honourable senators, to vote against this amendment. It is, in my opinion, an overreach at this stage that will dislocate borrowers and potentially undermine the credibility of the cause that Senator Ringuette has brought us to.

Bill C-237, as it is now, before this amendment, is a balanced step forward, and I urge us to vote against this amendment and vote for the bill. Thank you.

The Hon. the Speaker: Senator Tannas, will you take a question?

Senator Tannas: Yes.

Senator Ringuette: It's all nice and pretty, but I have been at this issue for seven years. Meanwhile, your low-income family has been tied with the debt burden of an institution charging them 60 per cent. We have sat here and done absolutely nothing, and I'm being polite.

But we're here with our nice yearly income and Tax-Free Savings Account. We also have had, on the Order Paper, Senator Tannas, for almost 16 months, a motion from me asking that we review the Financial Consumer Agency of Canada.

The Hon. the Speaker: Senator Ringuette —

Senator Ringuette: My question is coming.

The Hon. the Speaker: It's in order for you to join debate on the amendment, if you wish. That appears to be what you're doing. If you want to ask a question, you are also permitted to do that. Do you want to join the debate on the amendment or ask a question?

Senator Ringuette: I will join the debate.

Hon. Frances Lankin: I have a question.

The Hon. the Speaker: Senator Lankin has a question for Senator Tannas first.

Senator Lankin: Will you take the question?

Senator Tannas: Yes.

Senator Lankin: Senator Tannas, I have a sense that we have a common cause about bringing the rate down and in understanding the impact on low-income families and neighbourhoods.

I had the opportunity to speak last week, and I spoke about the history of the interest rate within Canada, but also within the U.S. The 36 per cent rate that they have landed at there is the appropriate rate.

I find it interesting that the Canadian banking industry — and if you talk about the "Big Five," many of them own operations in the U.S. BMO Harris Bank and TD have operations. Scotiabank is primarily in the Caribbean. I am sorry; I am coming to the question right now. These banks are complying with that 36 per cent interest rate or variations on it, depending on the

state, in their jurisdiction. Did you look at that? If it is sufficient for the U.S. operations of Canadian banks to operate at the lower level, why is it not sufficient for the Canadian operations in Canada?

• (2210)

Senator Tannas: We did not look at that at the Banking Committee. After your speech, however, I did a little bit of digging. The majority of states actually have some kind of variance on 36 per cent and have had it for years. I wouldn't be surprised if some day we could get to 36 per cent. The issue for us was that the vehicle that we're dealing with is the wrong vehicle to get there. That's number one.

Number two is that we are not at 36 per cent. We have a thriving industry at 45 per cent that will need to completely rebalance if we suddenly drop to 36 per cent, and we will dislocate a whole bunch of people along the way who are trying to play by the rules. That's why we said, "Let's do something now." Let's signal that this is unacceptable. Let's try to talk to the government about getting in the game here and paying attention, and putting a decent plan together about how to get us to a fair number that will maximize the amount of access to people who need to borrow money. If you're paying that kind of money, you are not a stellar borrower. You are a high-risk person and there is a high degree of risk you won't pay it back.

The point is that in the U.S. the 36 per cent is there. Also, there were enormous variances around this fee issue, which is our problem with this instrument that says it's an all-in number, and fees count in the calculation of the interest. In many of the states in the United States, that's not the case.

Hon. Lucie Moncion: Would you take a question?

Senator Tannas: Yes.

Senator Moncion: You just mentioned that this is not the proper way of regulating the rate. What would be the proper way?

Senator Tannas: I think the federal government needs to spend some time on this issue. We're the Senate Banking, Trade and Commerce Committee and we had four or five meetings on this. It didn't take us long before we were looking at each other saying, "Holy cow, this is a big problem that needs to be fixed." But it won't be us. It ought to be the government and they ought to have a suite of policies in place to deal with this.

Senator Moncion: Are you aware that banks do charge 36 per cent rates? Do they; do you know?

Senator Tannas: Under this calculation, indeed. In fact, I gave you one example, and another one was 37 per cent on a credit card. This is National Bank. If you took out $250 at an ATM and then paid it back in a month, you pay the $3.50 ATM fee and the 20 per cent interest rate on a month, which equals 37 per cent. That's the issue.

These are not the egregious ones that we heard about. They were in the 50 per cent and 60 per cent range.

Senator Moncion: You just clarified why the credit card companies are against the reduction of this rate. Do you think that's good enough reason not to reduce the rate?

Senator Tannas: We found there was nothing in what we would call the banking sphere or one step removed from the banking sphere that exceeded 45 per cent, and that's where we felt we could safely take a step because the folks who were above 45 per cent did not make most of us comfortable. But those below 45 per cent would include all the banks and the other tier that is just after the banks, which are the loan companies that have been around for a long time.

The Hon. the Speaker: On debate, Senator Ringuette.

Senator Ringuette: I would like to remind our honourable colleagues in relation to the example Senator Tannas has just indicated in respect to the $3.50 ATM fee, most of the time that ATM belongs to that bank also. I would say approximately 80 per cent of ATM machines in Canada are owned by the banking institutions, so it's fees galore, and as I mentioned in my speech it's also profits galore.

There is a limit to the kind of unreserved profit that an institution that has 80 per cent of its customer loan deposit guaranteed. Small business loans are guaranteed by the federal government, but at the end of the day there seem to be no issues in regard to corporate citizenship and looking at ways and means to help Canadians most underserved by the banks. And they have reduced the number of banks all over our country. They have reduced by 1,800 branches in the last decade.

Coming back to the issue of 36 per cent, the same court judgment with respect to the interest rate and the fees attached to any kind of contract or paperwork, the banks in the U.S. have not ruled differently on this issue from the banks in Canada and the banks in Quebec. The Province of Quebec has decided that within their jurisdiction their way of providing some consumer protection is by the licensing of businesses.

At the end of the day, I don't buy the argument that we have to take into consideration the fees and that 45 per cent, at a time when the Bank of Canada rate is at 1.25 per cent, is good. At any Canadian bank right now, with a customer line of credit and no guarantee whatsoever, you can get a rate of 8.36 per cent.

Why should the poorest of our poor Canadians have to say that they need a loan right now because they need to pay for a prescription for their kids or put gas in their car to go to work, for $12 an hour? Why should we be the ones to decide that what is most important in our line of thinking is the payday loan industry? Just Google "payday loan." You will have at least 76 different entities operating in Canada, physically and online.

I agree with Senator Tannas that no one — not the provincial or federal governments — is looking into this issue. It's very nice to talk about the working poor and raising the standard of living in Canada, but these are day-to-day issues. And the only way we can deal with this issue is through the Criminal Code, because that is the only place where the Government of Canada issues an interest rate. That is the only means we have.

• (2220)

So I certainly agree with Senator Tannas that this is probably not the proper place to deal with this issue. But for the time being, and as far as I'm concerned for the last seven years that I've been trying to raise this issue, it's the only place that we can deal with it. If 35 per cent is good for Quebec, I honestly believe that it should be good for the rest of Canada. If the loan industry, which is decent in their policies and regulations, can do business in Quebec under these guidelines, they should be able to do business in the rest of the country under the same guidelines.

Therefore, I maintain that for the time being, the best way to deal with this situation is with the amendment that I have put before you. Hopefully in the fall we will move forward on the motion I have on the Order Paper and look at the scheme and the responsibility of federal consumer protection in financial issues, because there is something wrong there too.

Are we just going to say, "Okay, we heard the industry, and the industry told us that we cannot survive if we don't have 45 per cent"? I don't agree, because the industry is surviving in Quebec at 35 per cent, and that's good enough for me. We can review it because thanks to you and your amendment, Senator Tannas, you added a three-year review period, and that's good enough for me.

Let's go to 35 per cent. Let's push the industry to do its darn best and review it in three years. When the fall comes, I hope that all of you will commit and move the motion I have on the Order Paper. We need to deal not only with the industry of this country but with the people who are working hard, some of them at three different jobs. We're the lucky ones. Remember that.

At the end of the day, I certainly hope that, for the sake of the people of Canada, we try this 35 per cent for three years. Let's make it work, and let's look at what is happening federally in regard to consumer financial protection. Enough is enough of this. I have been talking about this issue for seven years.

An Hon. Senator: Let's vote.

Senator Ringuette: Let's vote. I hope you will support the amendment I have put forth. Thank you very much.

The Hon. the Speaker: Senator Mercer?

Senator Mercer: I move the adjournment of the debate.

Some Hon. Senators: No.

The Hon. the Speaker: It is moved by the Honourable Senator Mercer, seconded by the Honourable Senator Day, that further debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have agreement on a bell?

Some Hon. Senators: Now.

Some Hon. Senators: No.

The Hon. the Speaker: Honourable senators will know that if there is no agreement on a bell, the default position is one hour. No agreement on a bell? The vote will take place at 11:20 p.m. —

Hon. Yonah Martin (Deputy Leader of the Opposition): On a point of order, Your Honour.

The Hon. the Speaker: Senator Martin, on a point of order.

Senator Martin: I was under the impression that under our rules, the whip of the opposition and the whip of the government would have to have agreement. Is that not correct?

The Hon. the Speaker: This is true, Senator Martin. The whips can come to an agreement on a time, but it requires —

Senator Plett: Fifteen minutes.

Some Hon. Senators: No.

The Hon. the Speaker: I'm not finished. They can come to an agreement on the time, but if somebody objects to that, the default position is a one-hour bell. Everybody has to agree, in other words. I heard a "no" on the agreed-upon time, so the default position is one hour. The vote will take place at 11:25 p.m.

Call in the senators.

• (2320)

Motion in amendment of the Honourable Senator Cools negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Cordy	Jaffer
Coyle	McCallum
Day	McPhedran
Downe	Mercer
Dyck	Munson—10

NAYS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mégie
Batters	Mitchell
Bellemare	Mockler
Bernard	Moncion
Beyak	Ngo
Black (*Ontario*)	Oh
Boisvenu	Omidvar
Cormier	Patterson
Dagenais	Petitclerc
Dalphond	Plett
Dasko	Poirier
Doyle	Pratte
Dupuis	Ravalia
Eaton	Richards
Forest	Ringuette
Gagné	Seidman
Galvez	Smith
Gold	Stewart Olsen
Griffin	Tannas
Housakos	Tkachuk
Lankin	Wallin
Maltais	Wells
Manning	Wetston
Marshall	White
Martin	Woo—53
McInnis	

ABSTENTIONS
THE HONOURABLE SENATORS

Bovey	Greene
Deacon (*Nova Scotia*)	MacDonald—4

• (2330)

The Hon. the Speaker: Resuming debate on the amendment, Senator Cordy.

Hon. Jane Cordy: Thank you very much, Your Honour.

I'm very interested in Bill S-237. I congratulate Senator Ringuette on all the work that she has done over the years, not only with this bill but over the years. I think that her bill is the right bill to address this issue.

I listened attentively to the debates this evening as I have to other debates over the years, but I do need some time to read today's debates. Therefore, I move the adjournment of the Senate.

The Hon. the Speaker: It is moved by the Honourable Senator Cordy, seconded by the Honourable Senator Munson, that the Senate do now adjourn. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "yeas" have it. No honourable senator rising.

Pursuant to the order of your honourable house, I declare the Senate continued until Wednesday, June 20, 2018, at 1:30 p.m. The Senate so decreeing.

(At 11:32 p.m., the Senate was continued until tomorrow at 1:30 p.m.)

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